Marion Utility Service Board

Marion Utilities

Governing Rules & Regulations, Ordinances, and Resolutions of the Marion Utility Service Board, Water Utility, Wastewater Utility, Stormwater Utility,and Solid Waste Utility

Table of Contents

This page contains clickable links.

Water Utility

Marion Codes Chapter 51: Water Utility
Ordinance 32-2006 Water Rules and Regulations
Ordinance (June) 2006 Cross Connections
Ordinance (March) 2005 Water Rates
Ordinance 40-2004 Fire Protection Rates
Ordinance 19-2004 Rate Increase
Ordinance 31-1993 Water Main Connection Fees
Ordinance 28-1992 Rates
Ordinance15-1992 Rates
Ordinance 24-1987 Rates
Ordinance June 1986 Rates
Ordinance 31-1985 Rates
Ordinance 13-1983 Rates
Ordinance 39-1977 Rates
Ordinance 25-1976 Rates
Ordinance (June) 1967 Rates
Ordinance 8-1954 Rates
Ordinance 10-1950 Rates

Wastewater Utility

Marion Chapter 52: Wastewater
Ordinance 9-2016 Wastewater Rules and Regulations
Ordinance 4-2016 Repeal Town of Sweetser
Ordinance 24-2010 Rates
Ordinance 11-2010 Wastewater Rules and Regulations
Ordinance (October) 2002 Wastewater Rules and Regulations
Ordinance (Resolution) 1-2001 Sewer Extension - Urban Enterprise Zone
Ordinance 36-1998 Wastewater Rules and Regulations
Ordinance 32-1994 Limits on daily discharge of metal
Ordinance 2-1993 Rates
Ordinance 36-1991
Ordinance 15-1984
Ordinance 19-1981
Ordinance 25-1972
Ordinance 25-1968
Ordinance 34-1958
Ordinance 50-1957
Ordinance 17-1954
Ordinance13-1953
Ordinance 9-1940

Storm Water Utility

Marion Chapter 53: Storm Water
Ordinance 8-4-2005 Storm Water Rules and Regulations
Ordinance 18-2005 Rates
Ordinance 43-2005 Non-User Classification Admend.
Ordinance1995 Delay in Implementation of Fees
Ordinance 27-1994 Rates

Solid Waste Utility

Marion Chapter 50: Waste Disposal
Ordinance 8-2016 Solid Waste Rules and Regulations
Ordinance 15-2015 - One Way Streets
Ordinance 13-2014 & 14-2014 -Transfer of Control
Ordinance 13-1997 Trash Ordinance
Ordinance 22-1994 Residential, Yard & Bulky Waste

Utility Board

Marion Codes Chapter 33: Utility Service Board
Indiana Codes
Ordinance 9-1998 Expired Terms
Ordinance 2-1995 Board Meetings
Ordinance 39-1995 Salaries
Ordinance 32-1993 USB Rules and Regulations
Ordinance 11-1987 Salaries
Ordinance 5-1985 Promotional Account
Ordinance 30-1983 USB Rules and Regulations
Ordinance 1-1971 USB Establishment

PDF Options:

Open with Microsoft Edge - clickable links, keyword search
Open with Google Chrome - clickable links, sections bookmarked
Open with Adobe Acrobat DC - clickable links, keyword search, sections bookmarked and editing options

UTILITY SERVICE BOARD

§ 33.50 PURPOSE.

The City Utility Board is created and established to operate the city water filtration plant and the city wastewater treatment facility.
(Ord. 32-1993, passed 12-21-1993)

§ 33.51 MEMBERSHIP.

(A) The City Utility Service Board shall be governed by I.C. 8-1.5-3-1 *et seq.*, as amended.

(1) The Board shall be composed of seven members, and the Mayor shall appoint the majority members as follows: one person for a term of four years, one person for a term of three years, one person

for a term of two years and one person for a term of one year; and the minority of the members shall be appointed by the City Council as follows: one person for a term of three years, one person for a term of two years, and one person for a term of one year.

(2) After the original appointments, all regular appointments shall be made for a term of four years; vacancies which occur are filled for the unexpired term only.

(B) Not more than two-thirds of the members shall be of the same political party. Party affiliations shall be determined by the latest primary voting record of the appointee in the most recent city or county primary election preceding his or her appointment to the City Utility Service Board. If the appointee did not vote in the most recent primary election held by the party with which the appointee claims affiliation he or she must be certified as a member of that party by the party's County Chairperson for the county in which the appointee resides.

(C) All members shall be residents of the area served by the Board. The Chairperson selected by the Board shall not be deemed a department head for the purposes of I.C. 36-4-9-2.
(Ord. 32-1993, passed 12-21-1993)

§ 33.52 FINANCES.

(A) *Board member compensation.*

(1) Members of the Marion Utility Service Board shall be reimbursed by the Utility for out-of-pocket expenses incurred in the performance of their duties as members of the Board.

(2) In addition, the Chairperson of the Board shall receive a salary in the amount of $2,500 annually, and regular Board members shall receive a salary in the amount of $2,000, effective January 1, 1996.

(3) If a Board member is unable to attend regular Board meetings for a period of two months consecutively, no salary will be received for the period of absence.

(B) *Promotional account.*

(1) An account is established being the Marion Utility Service Board Promotional and Miscellaneous Account. The Marion Utility Service Board is authorized to budget and appropriate funds from the revenues of the water and sewer utility to pay the expenses incurred in promoting the betterment of the City of Marion, Indiana, through the accounts created.

(2) Expenditures from these accounts may include, but are not necessarily limited to, the following:

(a) Membership dues and local, regional, state and national associates of a civic, educational or governmental nature which have as their purpose the betterment and improvement of municipal utility operations;

(b) Direct expenses for travel, meals and lodging in conjunction with municipal business or meetings or organizations to which the municipal utility belongs;

(c) Expenses incurred in the promotion of economic or industrial development for the municipality, including meeting room rental, decorations, lodging, meals and travel;

(d) Commemorative plaques, certificates, objects such as commemorative keys;

(e) Other purposes which are deemed by the Marion Utility Service Board to directly relate to the promotion or betterment of the City of Marion, Indiana.

(3) The promotional account shall be budgeted each year by the Marion Utility Service Board. No expense shall be allowed from the account without prior authorization and approval of the Marion Utility Service Board. Claims for expense under this section will be allowed as prescribed by law.
(Ord. 32-1993, passed 12-21-1993; Am. Ord. 39-1995, passed 12-20-1995)

§ 33.53 MEETINGS.

(A) *Regular meetings.* Regular meetings of the Board shall be held two times a month at 1540 North Washington Street or at such other public place in the City of Marion, Indiana, as a majority of the Board may select. The date and time of any such regular meeting shall be approved by the Board and shall be made public information as required by the Indiana Open Door Law. A majority may cancel the regular meeting with 48-hour notice. The Board has presently established the regular meeting for the first and third Thursday of each month, starting at 7:00 p.m., at 1540 North Washington Street. Board members and the news media will receive at least 48 hours advance notice of any change from the regular meeting schedule.

(B) *Special meetings.* Special meetings of the Board may be called at any time by the Chairperson, by the majority of the Board, by the Director or by the Superintendents jointly. The location, date and time of such special meetings shall be determined by the person or persons calling the meeting. Notice as required by the Open Door Law will be given.

(C) *Emergency meetings.* Emergency meetings of the Board may be called at any time by the Chairperson, by majority of the Board, by the Director or by the Superintendents jointly to deal with actual or potential injury to person, property or disruption of the water or sewer works. The location, date and time of such special meetings shall be determined by the person or persons calling the meeting. The same notice given to Board members must be given to the news media. An agenda will be provided to the Board members and the news media when practical.

(D) *Executive sessions.* The Board may meet in executive session at the discretion of the Chairperson or a majority of the Board. It is the intent of this Board to comply with the Indiana Open Door Law.

(E) *Quorum.* A majority of the number of Board members as fixed by city ordinance shall constitute a quorum for the transaction of business at any meeting. The act of majority of the quorum shall be the act of the whole Board, except where otherwise provided in these rules.

(F) *Agenda.* An agenda listing items of old and new business to be considered at regular meetings shall be prepared and made available to the Board members and the public at least 48 hours prior to the date of such meeting. The same shall be done for special and emergency meetings, when practical. Items may be placed on the agenda for a particular meeting by any Board member, Director, Superintendent, Office Manager, Attorney to the Board or a private citizen by contacting the Board secretary at least seven working days prior to the meeting. At any regular or special meeting, the Board may consider and act upon items of business not previously listed on the agenda for that meeting only upon a motion carried by a two-thirds vote of the Board present. If such two-thirds vote is not obtained, the item may be placed on the agenda for the next meeting.

(G) *Minutes.* The proceedings of all regular, special emergency and executive sessions of the Board shall be recorded in proper minute books in the form required by law. The minutes of each meeting shall be approved at the next meeting of the Board. The Secretary will sign the permanent copy of the minutes signifying to the Board approval of the minutes. In the event a dispute arises among the members as to the accuracy of any portion of the minutes, such dispute shall be resolved by a majority of votes of the whole Board. These minutes shall contain:

(1) The names of Board members present;

(2) The verbatim recording of all motions which are called to a vote; and

(3) The results of all votes taken that are less than unanimous by entering a list of the names of those voting by yeas and nays; provided, however, the minutes of the executive session need only identify the subject considered.

(H) *Order of business.* The order of business shall be as follows:

(1) Roll call;

(2) Reading of the minutes of the previous meeting and their approval;

(3) Reports of boards and standing committees;

(4) Reports of special (select) committees;

(5) Special orders;

(6) Unfinished business and general orders;

(7) New business;

(8) Adjourn.

(I) *Parliamentary procedure. Robert's Rules of Order* in its latest edition shall govern all deliberations of the Board when not in conflict with these rules.

(J) *Compliance with Indiana Open Door Law.* It is the Board's intent to meet the requirements of the Indiana Open Door Law. The Open Door Law prevails in event of a conflict between these rules and said law.

(K) *Affirmative Action Plan.* The Marion Utility Service Board affirms its commitment to equal employment opportunity for all persons, regardless of race, color, ancestry, religion, sex, national origin, marital status, physical handicap, medical condition, age, status as a disabled veteran or veteran of wars, including Vietnam, per the Utility's Affirmative Action Plan. A copy of the Affirmative Action Plan shall be kept on file at the Director's office for review.
(Ord. 32-1993, passed 12-21-1993)

§ 33.54 OFFICERS.

(A) *General.* The officers of the Board shall consist of a Chairperson and Vice Chairperson.

(B) *Elections.* The members of the Board shall elect from their number the Chairperson of the Board at the first regular meeting in January. The Chairperson shall be elected by a majority of votes of all members. Members may vote for Chairperson by absentee ballot if they are ill or out of town at the time of the meeting by delivery of their vote in sealed writing to the Board Secretary prior to the start of the meeting.

(C) *Terms.* The Chairperson elected by the Board shall hold that office for a term of one year or until a successor is duly elected.

(D) *Vacancy.* In the event the office of Chairperson becomes vacant prior to the expiration of the term, the Vice-Chairperson shall complete that unexpired term of Chairperson.

(E) *Duties of Chairperson.* The Chairperson shall preside at meetings of the Board and while so presiding shall have a vote upon all motions, orders, resolutions and other matters coming before the Board. The Chairperson shall be the chief executive officer of the Board. The Chairperson shall discharge the ordinary duties of a presiding office in the ordinary course of business and perform such other duties as may be prescribed by these rules and regulations or by the Marion Utility Service Board. The Chairperson shall appoint the Vice-Chairperson with approval of a majority vote of the whole Board. In the event a member votes by absentee ballot, he or she automatically concurs with the Chairperson's choice for Vice-Chairperson. The Chairperson shall appoint all committees. A standing committee will be appointed to work with other agencies concerning matters regarding utilities.

(F) *Duties of Vice-Chairperson.* The Vice-Chairperson shall perform all usual duties of the office in the absence of the Chairperson.
(Ord. 32-1993, passed 12-21-1993)

§ 33.55 ADMINISTRATION.

(A) *Director of Utilities.* The Director of this Utility is responsible to the Board for the business and

technical operations of the utilities. The following rules shall apply to the working relationship between the Board and the Director.

(1) The Director shall when possible attend all regular and special meetings of the Board and shall be eligible to attend the meetings of the Board in executive session, at the discretion of the Board.

(2) The Director shall have line authority regarding all utilities employees. The Board shall respect this authority at all times.

(3) In the event the Director believes that the actions of the Board or of any Board member are interfering with the Director's detailed supervision of the utilities, he or she shall so notify the Chairperson of the Board. Discussion of any dispute in this regard shall be held only in executive session, and the Director shall be present at any such meeting.

(4) In addition to an annual financial report, the Director shall prepare and submit to the Board monthly financial statements and perform whatever additional duties the Board, through the Chairperson, may prescribe.

(B) *Secretary.* The Board may utilize the services of a utility employee as a Secretary to the Board. The rate of compensation will be established by the Board. The Secretary shall have the following duties:

(1) Record, transcribe and make proper distribution of the minutes of all regular and special meetings;

(2) Maintain appropriate files;

(3) Maintain a correspondence log;

(4) Inform all members of any changes in the location, date or time of regular or special meetings;

(5) Perform whatever additional duties the Board, through the Chairperson, may prescribe.

(C) *Board members' duties.* In order to contribute to the overall effective functioning of the Board and the Utilities, Board members are expected to abide by the following rules:

(1) To attend all meetings of the Board unless legitimate reason exists for not attending;

(2) To participate actively in Board activities;

(3) To keep informed regarding Board activities;

(4) All requests by the Board or any member of the Board for information and reports to be supplied by utilities employees shall be made through the Director or, in his or her absence, the Director's nominee;

(5) To refrain from giving directions to do work to all utility personnel unless the request is made at a meeting of the Board and duly approved by the Board.

(D) *Use of an attorney.* To properly represent the Board and the Utilities, and subject to I.C. 36-4-9-12 setting out the powers and duties of the City Attorney, the Board's attorney shall:

(1) Attend Board meetings unless legitimate reasons exist for not attending and to give legal advice as requested, which may occur at times other than Board meetings;

(2) Draft the legal documents which are necessary for the conduct of the Board and Utility business;

(3) Represent the Board and Utilities in litigation matters;

(4) Be informed on law affecting the Board and Utility and to give advice regarding pertinent new legal developments.

(E) *Nonprofit organizations.* Laboratory services may be made available free of charge to any public or

private organization which has been designated as exempt from taxation under Internal Revenue Code Section 501(c)(3) at the discretion of the Board.
(Ord. 32-1993, passed 12-21-1993)

§ 33.56 AMENDMENTS.

The Board may amend or repeal all or any portion of §§ 33.51 through 33.56 by a majority vote of all members at any regular meeting of the Board, if notice of intention to amend or repeal that section in whole or in part shall have been given at the last preceding regular meeting to Mayor ad Council of the city prior to any final action.
(Ord. 32-1993, passed 12-21-1993)

West's Annotated Indiana Code
Title 36. Local Government (Refs & Annos)
Article 9. Transportation and Public Works
Chapter 2. General Powers Concerning Transportation and Public Works

IC 36-9-2-15

36-9-2-15 Utility service to public

Currentness

Sec. 15. A unit may furnish, or regulate the furnishing of, utility service to the public.

Credits

As added by Acts 1980, P.L.211, SEC.4.

Notes of Decisions (68)

I.C. 36-9-2-15, IN ST 36-9-2-15
The statutes and Constitution are current with all legislation of the 2017 First Regular Session of the 120th General Assembly.

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IC 8-1.5

ARTICLE 1.5. MUNICIPAL UTILITIES

IC 8-1.5-1

Chapter 1. Definitions

IC 8-1.5-1-1

Application

Sec. 1. The definitions in this chapter apply throughout this article.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-2

"Acquisition"

Sec. 2. "Acquisition" includes the following methods of obtaining property:

(1) Purchases.

(2) Condemnation.

(3) Leases.

(4) Exchanges.

(5) Acceptance of gifts.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-3

"Commission"

Sec. 3. "Commission" refers to the utility regulatory commission.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.23-1988, SEC.61.

IC 8-1.5-1-4

"Disposition"

Sec. 4. "Disposition" includes the sale, lease, exchange, or other transfer of property.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-5

"Executive"

Sec. 5. "Executive" means:

(1) mayor, for a city; or

(2) president of the town council, for a town.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.8-1989, SEC.40.

IC 8-1.5-1-6

"Fiscal officer"

Sec. 6. "Fiscal officer" means:

(1) controller, for a second class city;

(2) clerk-treasurer, for a third class city; or

(3) clerk-treasurer, for a town.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-7
"Legislative body"

Sec. 7. "Legislative body" means:

(1) common council, for a city; or

(2) town council, for a town.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.8-1989, SEC.41.

IC 8-1.5-1-8
"Municipality"

Sec. 8. "Municipality" means city or town.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-9
"Person"

Sec. 9. "Person" means individual, firm, corporation, partnership, limited liability company, trustee, lessee, or receiver.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.8-1993, SEC.132.

IC 8-1.5-1-10
"Utility"; "municipally owned utility"; "public utility"

Sec. 10. "Utility", "municipally owned utility", and "public utility" have the meanings set forth in IC 8-1-2-1.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2

Chapter 2. Transfer, Acquisition, and Improvement of Utilities by Municipalities

IC 8-1.5-2-1

Application of chapter; exception

Sec. 1. This chapter applies to all municipalities except consolidated cities.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-2

Application of chapter; additional exceptions

Sec. 2. (a) This chapter does not apply to utilities governed by IC 8-1-13 or IC 8-1-2 except for a municipally owned utility.

(b) The law relating to acquisition of electric utility property and to electricity suppliers' service area assignments shall be governed by IC 8-1-2.3 and IC 8-1-2-95.1, and nothing in this chapter modifies or abridges those provisions.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-3

Disposition, construction, and acquisition of utilities; lease and operation of waterworks facilities

Sec. 3. (a) Subject to restrictions imposed by a bond ordinance, resolution, indenture, contract under IC 8-1-2.2, or similar instrument binding upon it, a municipality may sell or otherwise dispose of any of its municipally owned utilities under this chapter.

(b) A municipality may own, lease, acquire, or construct a utility within the corporate boundaries of the municipality, and within a radius of six (6) miles from those boundaries or any place within the county in which the municipality is located, under this chapter without the consent of any agency other than the municipal legislative body. Waterworks facilities may be leased from a public utility and operated in conjunction with its municipal waterworks, whether or not the leased facilities are located within the corporate boundaries of the municipality, if the area served by the leased facilities outside those boundaries is contiguous to, or within one (1) mile of, those boundaries. For purposes of IC 36-4-3, a municipality that leases and operates waterworks serving such an area is considered to be furnishing water service to the area.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-4

Sale of nonsurplus property; ordinance or resolution providing for appraisal

Sec. 4. Whenever the municipal legislative body determines to sell or otherwise dispose of nonsurplus municipally owned utility property, it shall by ordinance or resolution, by a two-thirds (2/3) vote, provide for the following:

(1) The appointment, as follows, of three (3) residents of

Indiana to serve as appraisers:

(A) One (1) disinterested person who is an engineer licensed under IC 25-31-1.

(B) One (1) disinterested appraiser licensed under IC 25-34.1.

(C) One disinterested person who is either:

(i) an engineer licensed under IC 25-31-1; or

(ii) an appraiser licensed under IC 25-34.1.

(2) The appraisal of the property.

(3) The time that the appraisal is due.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.113-2006, SEC.2; P.L.103-2008, SEC.2.

IC 8-1.5-2-5

Sale of nonsurplus property; appraiser qualifications; public hearing; ordinance for sale; petitions opposing sale; submission to voters

Sec. 5. (a) Each appraiser appointed as provided by section 4 of this chapter must:

(1) by education and experience, have such expert and technical knowledge and qualifications as to make a proper appraisal and valuation of the property of the type and nature involved in the sale;

(2) be a disinterested person; and

(3) not be a resident or taxpayer of the municipality.

(b) The appraisers shall:

(1) be sworn to make a just and true valuation of the property; and

(2) return their appraisal, in writing, to the municipal legislative body within the time fixed by the ordinance or resolution appointing them.

(c) If all three (3) appraisers cannot agree as to the appraised value, the appraisal, when signed by two (2) of the appraisers, constitutes a good and valid appraisal.

(d) If, after the return of the appraisal by the appraisers to the legislative body, the legislative body decides to proceed with the sale or disposition of the nonsurplus municipally owned utility property, the legislative body shall, not later than forty-five (45) days after the return of the appraisal, hold a public hearing to do the following:

(1) Review and explain the appraisal.

(2) Receive public comment on the proposed sale or disposition of the nonsurplus municipally owned utility property.

(3) Adopt an ordinance providing for the sale or disposition of the nonsurplus municipally owned utility property. The legislative body is not required to adopt an ordinance under this subdivision if, after the hearing, the legislative body determines it is not in the interest of the municipality to proceed with the sale or disposition.

Notice of the hearing shall be published in the manner prescribed by IC 5-3-1.

(e) The hearing on the ordinance providing for sale or disposition may not be held for thirty (30) days after notice is given as required by subsection (d).

(f) If:

(1) the legislative body adopts an ordinance under subsection (d)(3); and

(2) within the thirty (30) day period described in subsection (e), at least the number of the registered voters of the municipality required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign and present a petition to the legislative body opposing the sale or disposition;

the legislative body shall submit the question as to whether the sale or disposition shall be made to the voters of the municipality at a special or general election. In submitting the public question to the voters, the legislative body shall certify the question to the county election board of the county containing the greatest percentage of population of the municipality under IC 3-10-9-3. The county election board shall adopt a resolution setting forth the text of the public question and shall submit the question as to whether the sale or disposition shall be made to the voters of the municipality at a special or general election on a date specified by the municipal legislative body. Pending the results of an election under this subsection, the municipality may not take further action to sell or dispose of the property as provided in the ordinance.

(g) If a majority of the voters voting on the question vote for the sale or disposition, the legislative body shall proceed to sell the property as provided in the ordinance.

(h) If a majority of the voters voting on the question vote against the sale or disposition, the sale may not be made.

(i) If:

(1) the legislative body adopts an ordinance under subsection (d)(3); and

(2) after the expiration of thirty (30) days as provided in subsection (e), a petition is not filed;

the municipal legislative body may proceed to sell the property as provided in the ordinance.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.12-1995, SEC.99; P.L.3-1997, SEC.425; P.L.2-1998, SEC.34; P.L.103-2008, SEC.3.

IC 8-1.5-2-6

Sale of nonsurplus property; terms of ordinance; satisfaction of existing obligations; bid submitted by trust

Sec. 6. (a) The ordinance adopted by the municipal legislative body under section 5(d) of this chapter must provide for:

(1) the sale or disposition of the municipally owned utility property;

(2) the manner of the sale or disposition;

(3) the price, terms, and conditions of the sale or disposition, which must be consistent with any contractual obligations

previously incurred under IC 8-1-2.2; and

(4) the officer or officers who are to execute the proper documents conveying title on behalf of the municipality.

(b) The property may not be sold for less than its full appraised value, as set forth in the appraisal, less the amount of any bonds, liens, or other indebtedness due upon the property, and only in accordance with contractual obligations incurred under IC 8-1-2.2. The indebtedness shall either:

(1) be paid in accordance with the terms and conditions of the instruments governing the indebtedness before the sale; or

(2) be assumed and paid by the purchaser as part of the purchase price of the property.

(c) This subsection applies if a municipal legislative body adopts an ordinance for the sale or disposition of municipally owned utility real property by acceptance of bids. A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

(d) The proceeds of any sale under this chapter shall be paid into the treasury of the municipality making the sale and become part of the general fund.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.104-1983, SEC.1; P.L.336-1989(ss), SEC.18; P.L.103-2008, SEC.4.

IC 8-1.5-2-7

Public convenience and necessity; declaratory resolution

Sec. 7. (a) A certificate of public convenience and necessity is not required as a condition precedent to the owning, leasing, acquisition, construction, or operation of a utility by a municipality, even if there is a public utility engaged in a similar service. The acquisition of electric utility property and assignment of a municipal electric utility's service area are, however, subject to the provisions of IC 8-1-2.3 and IC 8-1-2-95.1.

(b) Subsection (d) applies to the following:

(1) A municipality that wants to acquire an existing utility, including by purchase or condemnation under IC 8-1-2-92, IC 8-1-2-93, or otherwise.

(2) A municipality that wants to own and operate a utility in a location where, or contiguous to where, there is a public utility engaged in a similar service:

(A) under a franchise granted by the municipality; or

(B) under an indeterminate permit as defined in IC 8-1-2-1.

(c) Notwithstanding subsection (b), subsection (d) does not apply to the following:

(1) A municipality that owns and operates a water utility as of July 1, 2012.

(2) An action brought under:

(A) IC 8-1-2-92;

(B) IC 8-1-2-93; or

(C) this chapter;

before March 1, 2013.

(d) Before a municipality described in subsection (b) may declare by ordinance that public convenience and necessity require the establishment of a municipally owned utility, the municipality shall conduct a hearing under section 10 of this chapter.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.172-2009, SEC.3; P.L.270-2013, SEC.4.

IC 8-1.5-2-8

Preliminary expenses; appropriation

Sec. 8. Before a municipal legislative body:

(1) proposes to construct or acquire a utility; and

(2) makes a determination as to public convenience and necessity;

it may appropriate out of its general fund an amount not exceeding five percent (5%) of the total estimated cost of constructing or acquiring the utility, as necessary to pay the expenses of a preliminary investigation, surveys, plans, specifications, and appraisals, including engineering and legal expenses in constructing or acquiring the utility. Any action by the municipal legislative body in making an appropriation is final and not subject to review by the department of local government finance. The municipal legislative body may renew or adjust the appropriation on an annual basis until the construction or acquisition of the utility is complete.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.90-2002, SEC.313; P.L.172-2009, SEC.4.

IC 8-1.5-2-9

Appropriation for preliminary expenses; repayment

Sec. 9. If the municipal legislative body proceeds to construct or acquire the utility, there must be included in the total amount of money to be raised by the issuance of bonds in connection with the construction or acquisition of the utility the amount of the expenditures that will be repaid to the general fund of the municipality from the money derived from the issuance and sale of the bonds.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-10

Ordinance declaring public convenience and necessity; notice and hearing

Sec. 10. (a) Before a municipal legislative body adopts an ordinance declaring that public convenience and necessity require the construction or acquisition of a utility as provided by section 7 of this chapter, each public utility furnishing a similar utility service in the municipality, or in the contiguous territory in which the municipality proposes to operate, shall be given ten (10) days notice by the legislative body of the time and place where the hearing will be held. At the hearing, the public utility is entitled to be heard in person or by counsel in opposition to the proposed action.

(b) Notice must be served by delivering a copy to an officer or manager of the public utility in the municipality, if possible, or to an officer of the public utility elsewhere in Indiana.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-11
Repealed
(Repealed by P.L.172-2009, SEC.8.)

IC 8-1.5-2-12
Sale of heat, light, water, or power to municipality
Sec. 12. (a) Upon the approval by resolution of the municipal legislative body, a municipally owned utility may sell or furnish heat, light, water, or power to the municipality to be used exclusively for the furnishing of utility service to the municipality for its own municipal purposes.
(b) This section is not intended to permit the sale or furnishing of power to the municipality where the sale would affect the obligation of any contract or franchise.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-13
Contracts for acquisition, construction, or replacement of public utility property; authorizing ordinance
Sec. 13. A contract made by the municipal legislative body for the acquisition, construction, extension, or replacement of the property of a public utility must be authorized by ordinance. The ordinance must provide for the principal and interest of bonds issued for the payment of the cost of the acquisition, construction, extension, or replacement to be paid exclusively from the income and revenue of the property acquired with the proceeds of the bonds.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-14
Costs of construction or acquisition; security for payment
Sec. 14. A municipality that constructs or acquires a utility may, through its municipal legislative body, provide for and secure the payment of the cost of constructing, acquiring, extending, or improving the utility by assigning or otherwise pledging the property acquired, together with the net earnings or profits derived or to be derived from the operation of the utility or utilities. Contracts, warrants, debentures, or pledges of future revenues entered into by a municipally owned utility are not an indebtedness of the municipality within the meaning of any constitutional debt limitation.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-15
Condemnation; authorization
Sec. 15. (a) This section applies to the following:
(1) A municipality that, as of July 1, 2012, had established and

operated a water utility.

(2) An action brought under:

(A) IC 8-1-2-92;

(B) IC 8-1-2-93; or

(C) this chapter;

before March 1, 2013.

(b) If the municipality and the owners of a public utility are unable to agree upon a price to be paid for the property of the public utility, the municipality may:

(1) by ordinance declare that a public necessity exists for the condemnation of the utility property; and

(2) bring an action in the circuit or superior court of the county where the municipality is located against the utility for the condemnation of the property.

(c) An ordinance adopted under subsection (b) is final.

(d) For the purpose of acquiring the property of a public utility, the municipality:

(1) may exercise the power of eminent domain in accordance with IC 32-24; and

(2) is required only to establish the necessity of taking as this chapter requires.

(e) The provisions of this section do not apply to the acquisition of electric utility property or the assignment of service areas covered by IC 8-1-2.3 and IC 8-1-2-95.1.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.2-2002, SEC.38; P.L.270-2013, SEC.5.

IC 8-1.5-2-15.5

Condemnation of public utility

Sec. 15.5. (a) This section does not apply to the following:

(1) A municipality that, as of July 1, 2012, had established a water utility.

(2) An action brought under:

(A) IC 8-1-2-92;

(B) IC 8-1-2-93; or

(C) this chapter;

before March 1, 2013.

(3) The acquisition of electric utility property or the assignment of service areas covered by IC 8-1-2.3 and IC 8-1-2-95.1.

(4) The acquisition of water or sewer utility property, unless the requirements of IC 8-1-30 are satisfied.

(b) If the municipality and the owners of a public utility are unable to agree upon a price to be paid for the property of the public utility, the municipality may bring an action in the circuit or superior court of the county where the municipality is located against the utility for the condemnation of the property.

(c) For the purpose of acquiring the property of a public utility, the municipality shall exercise the power of eminent domain in accordance with IC 32-24-1.

As added by P.L.270-2013, SEC.6.

IC 8-1.5-2-16
Repealed
(Repealed by P.L.172-2009, SEC.8.)

IC 8-1.5-2-17
Acquisition of property rights inside or outside boundaries; utility lines; protection of services from injury or pollution; attachments from abuse, destruction, or waste

Sec. 17. (a) A municipality, by exercising the power of eminent domain in accordance with IC 32-24 or other applicable law, may acquire property rights inside or outside its corporate boundaries as necessary for the business of a municipally owned utility.

(b) The municipal legislative body may provide for utility lines to be laid through the municipality as the municipally owned utility requires. The municipality may use any property or property rights necessary for constructing, acquiring, operating, or protecting from injury or pollution the municipally owned utility services.

(c) For the purpose of preserving and protecting from injury or pollution the municipal water services, the municipality may exercise its powers in areas within twenty-five (25) miles outside its corporate boundaries.

(d) All attachments made to the utility fixtures, whether intended for public or private use, are subject to the supervision and rules of the utility for protection against abuse or destruction or the inordinate use or waste of utility services.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.2-2002, SEC.39.

IC 8-1.5-2-18
Bonds; payable out of special account; issuance

Sec. 18. (a) To provide money to pay for the construction or acquisition of a utility under this chapter, or its extension, improvement, or replacement in whole or in part, or its repair, the municipal legislative body may issue and sell bonds bearing interest at any rate, executed and payable at times not to exceed forty (40) years from the date of issuance, and at places as the legislative body determines. The bonds and interest on them are payable only out of a special account, and the bonds do not constitute an indebtedness of the municipality within the meaning of the constitutional limitations.

(b) Each bond must state plainly upon its face:

(1) that it is payable only from a special account;

(2) the account and the ordinance creating it; and

(3) that it does not constitute an indebtedness of the municipality within the meaning of any constitutional debt limitation.

(c) The bonds shall be sold in accordance with IC 5-1-11.

(d) This section provides an alternative method of financing for all municipalities, notwithstanding any other law.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-19

Bonds, notes, or other obligations; issuance; approval by commission for long term bonds

Sec. 19. (a) A municipality may not issue bonds, notes, or other obligations under this chapter without the approval of the commission if the bond, notes, or other obligations are payable more than twelve (12) months after their execution, except as authorized by IC 8-1-2.2-11.

(b) If the evidence presented to the commission establishes that the rates and charges proposed by the municipally owned utility will provide sufficient funds for the operation, maintenance, and depreciation of the utility, and to pay the principal and interest of the proposed bond issue, together with a surplus or margin of at least ten percent (10%) in excess, the commission shall so certify in its order approving the issuance of bonds.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.103-2008, SEC.5.

IC 8-1.5-2-19.5

Purchase of equipment requiring lead time before availability; approval of contracts if sufficient funds available

Sec. 19.5. If a municipality desires to purchase and install equipment for its utility which requires more than three (3) months lead time for the supplier to make such equipment and installation available, the legislative body may, by ordinance, approve a contract therefor even though it does not have sufficient funds appropriated or on hand to pay for such purchase if the utility:

(1) has annual net operating revenues for the immediately preceding calendar year sufficient to permit the municipality:

(A) to pay the principal of and interest on an issue of its utility revenue bonds in the principal amount necessary to fund such purchase (including engineering costs, legal costs, and costs of bond issuance associated therewith); and

(B) a margin of safety which it deems necessary to market such bonds on acceptable terms;

(2) if required by section 19 of this chapter, has received approval from the commission to issue bonds, notes, or other obligations sufficient to fund such purchase; or

(3) has received approval from the commission to raise its rates and charges in an amount sufficient to permit the issuance of said bonds.

As added by P.L.105-1983, SEC.1. Amended by P.L.103-2008, SEC.6.

IC 8-1.5-2-20

Bonds; payment from revenues not derived from particular utility; restriction

Sec. 20. Except as provided by section 22 of this chapter, the municipal legislative body may not adopt an ordinance, or enter into or ratify a contract, for the payment, directly or indirectly, of a bond

or bonds by revenues derived by the municipality from the levy of taxes, from the issuance of any bonds other than from the issuance of bonds specifically authorized by this chapter or by a refunding statute, or from any source except the revenues derived from that particular utility.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-21
Bonds payable out of special account; purchase by municipality

Sec. 21. A municipality may invest its own money in the bonds issued under section 18 of this chapter.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-22
General obligation bonds; authorization; limitation

Sec. 22. (a) If the municipal legislative body decides that it is impracticable to raise the entire amount necessary to construct or acquire the utility solely by the issuance and sale of revenue bonds, the legislative body may, by ordinance, provide that a part of the amount may be raised by the issuance and sale of bonds pledging the general credit of the municipality.

(b) The bonds shall be issued in accordance with IC 6-1.1-20. The bonds may not exceed one-third (1/3) of the total cost of the utility. This limitation does not apply to a utility to be owned and operated by a municipality exclusively for the purpose of furnishing utility service to the municipality for its own municipal purposes.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-23
General obligation bonds; terms; sale

Sec. 23. If general obligation bonds are issued, they:

(1) may be issued in any denomination;

(2) are payable at a time not to exceed forty (40) years from issuance;

(3) may bear interest at any rate payable semiannually; and

(4) shall be sold for not less than par value and accrued interest;

as provided by ordinance. The bonds shall be sold in accordance with IC 5-1-11.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-24
Revenue bonds; money set aside for payment of interest and principal

Sec. 24. (a) The board of a municipally owned utility, as defined by IC 8-1.5-3-2, shall, at least semiannually, set aside from the net earnings a sufficient amount to pay the interest and principal, as they become due, on revenue bonds issued in payment for the utility or for its improvement. This money may not be used for any other purpose.

(b) The commission shall approve the amount set aside for the payment of the interest and principal when the commission approves

the rates and charges of the municipality.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-25
Special utility account; establishment by municipality; use

Sec. 25. (a) The municipal legislative body, after providing for the:

(1) payment of operation and maintenance expenses of the utility;

(2) payment of the interest and principal on revenue bonds and creation of reserves for them;

(3) payment of the interest and principal on general obligation bonds and creation of reserves for them; and

(4) payment of assessed taxes;

shall set aside a sufficient remainder of the earnings into a separate and special account to be identified as the special utility account, to be used and applied in the extension, replacement in whole or in part, repair, and operation and maintenance of the utility.

(b) The remaining earnings may be applied to:

(1) the general fund of the municipality in accordance with IC 8-1.5-3-11, outstanding bond ordinances, and contract provisions under IC 8-1-2.2;

(2) the payment of the interest on a loan made for utility construction; or

(3) the creation of a sinking fund for the liquidation of the debt;

as the legislative body determines.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-26
Tax levy for payment of bonds

Sec. 26. (a) To pay the principal and interest on bonds issued for the construction, acquisition, extension, or improvement of a municipally owned utility, the municipal legislative body may levy an annual tax of sufficient amount on all taxable property of the municipality.

(b) If the legislative body:

(1) has contracted with a person for supplying utility services or has agreed to lease or purchase utility services; and

(2) has, in the contract, agreed to pay a stated rental, a stipulated purchase price, or other compensation to the person, or has issued bonds to pay for stock in the company or to purchase the plant;

it may levy an annual tax for payment of the rent or other consideration or purchase price to be paid for utility services, or for the purchase price of a plant, and to pay the principal and interest on the bonds.

(c) The tax under this section shall be levied and collected as other municipal taxes are levied and collected, and the proceeds shall be used only for the purpose for which the tax was levied.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-27

Lease of waterworks facilities; term; option to purchase or renew; transfer of property to municipality

Sec. 27. (a) A municipality may lease waterworks facilities from a not-for-profit corporation, a public utility, a county, or a municipality. The term of the lease may not exceed fifty (50) years. The lease must provide that the municipality has an option to:

(1) renew the lease for a further term on like conditions; and

(2) purchase the waterworks facilities covered by the lease contract with the terms and conditions of the purchase specified in the lease.

(b) If the option to purchase the waterworks facilities covered by the lease is exercised, the municipality, for the purpose of procuring money to pay the purchase price, may issue and sell revenue bonds under other laws governing the issuance and sale of waterworks revenue bonds for additions and extensions to municipal waterworks.

(c) If the municipality has not exercised an option to purchase the property covered by the lease at the expiration of the lease, and upon the full discharge and performance by the municipality of its obligations under the lease contract, the property covered by the lease thereupon becomes the absolute property of the municipality, and the lessor shall execute proper instruments conveying to the municipality good and merchantable title thereto.

(d) A waterworks facility leased under this section is subject to IC 5-16-7.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.35-1990, SEC.26.

IC 8-1.5-2-28

Lease of waterworks facilities; payment of operating expenses; sufficiency of rates and charges

Sec. 28. (a) A waterworks lease may provide that as a part of the lease rental for the waterworks facilities the lessee agrees to:

(1) pay all property taxes and assessments levied against or on account of the leased facilities;

(2) maintain insurance on the leased facilities for the benefit of the lessor; and

(3) assume all responsibilities for the operation, maintenance, repair, alterations, and additions of the leased facilities.

(b) All of the expenses incurred under subsection (a) and the lease rental are payable solely from the revenues derived from water rates and charges to be collected by the lessee from property and users in the area served by the leased facilities.

(c) The lessee may establish, fix, bill, and collect rates and charges with respect to the property and users in the area served by the leased facilities that are sufficient:

(1) to pay the costs of operation, maintenance, repair, alterations, depreciation, and additions of the leased facilities; and

(2) to pay the lease rental as it becomes due.

Rates and charges too low to meet these requirements are unlawful. These rates and charges are subject to approval in accordance with IC 8-1.5-3-8.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-29
Lease of waterworks facilities; notice and hearing

Sec. 29. (a) When the municipality and the lessor have agreed upon the terms and conditions of any waterworks lease proposed to be entered into under this chapter and before the final execution of the lease, a notice shall be given by publication in accordance with IC 5-3-1 to all persons interested, of a hearing to be held before the municipal legislative body, which hearing must be on a day not earlier than twenty (20) days after publication of the notice.

(b) The notice must:

(1) name the day, place, and hour of the hearing; and

(2) set forth a brief summary of the principal terms agreed upon, including:

(A) the name of the lessor;

(B) the character of the property to be leased;

(C) the lease rental to be paid; and

(D) the number of years the lease is to be in effect.

(c) The proposed lease must be available for inspection by the public during the twenty (20) day period and at the hearing.

(d) All persons interested are entitled to be heard, at the time fixed, upon the necessity for the execution of the lease and whether the rental to be paid to the proposed lessor is a fair and reasonable rental for the waterworks facilities. The hearing may be adjourned to a later date or dates.
As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.35-1990, SEC.27.

IC 8-1.5-2-30
Lease of waterworks facilities; execution; limitation of actions

Sec. 30. (a) After the hearing under section 29 of this chapter, the municipal legislative body may:

(1) authorize the execution of the waterworks lease as originally agreed upon; or

(2) make modifications as may be agreed upon with the proposed lessor;

but the lease rental as set out in the published notice may not be increased without a new notice and hearing.

(b) If the execution of the lease as originally agreed upon, or as modified by agreement, is authorized by the legislative body, a notice of the signing of the contract of lease shall be given by publication in accordance with IC 5-3-1.

(c) An action to:

(1) contest the validity of the lease; or

(2) enjoin the performance of any of the terms and conditions of the lease;

must be brought not later than thirty (30) days after publication of the notice of execution of the lease.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-31
Leased waterworks facilities; tax exemptions

Sec. 31. All waterworks facilities leased by a lessor contracting with a municipality under this chapter are exempt from all state, county, and other taxes. However, the rental paid to a lessor under the terms of such a lease is subject to all applicable taxes.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-32
Leased waterworks facilities; applicable statutes

Sec. 32. As to waterworks facilities leased and acquired under this chapter, it is not necessary to comply with any other statutes concerning the leasing and acquisition of waterworks facilities by municipalities except as specifically required by this chapter.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-33
Action to determine public convenience and necessity

Sec. 33. (a) This section does not apply to the following:

(1) A municipality that, as of July 1, 2012, had established and operated a water utility.

(2) An action brought under:

(A) IC 8-1-2-92;

(B) IC 8-1-2-93; or

(C) this chapter;

before March 1, 2013.

(b) Not more than thirty (30) days after a municipality described in section 7(b)(1) or 7(b)(2) of this chapter adopts an ordinance under section 7 of this chapter, the utility may bring an action against the municipality in the circuit or superior court of the county in which the municipality is located to determine the question of public convenience and necessity.

(c) The court shall stay further action by the municipality under the ordinance adopted under section 7 of this chapter pending the court's determination.

(d) The court shall try the cause without delay and without a jury and review the evidence de novo.
As added by P.L.270-2013, SEC.7.

IC 8-1.5-3

Chapter 3. Operation of Municipally Owned Utilities Generally

IC 8-1.5-3-1

Application of chapter

Sec. 1. This chapter applies to all municipalities, except consolidated cities, that own or operate utilities.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to the board operating a municipally owned utility as determined under section 3 of this chapter.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-3

Control of utilities; control of storm water facilities in third class cities; ordinance; creation of utility service board

Sec. 3. (a) The legislative body of a municipality may, by ordinance, provide for the control of any or all of its municipally owned utilities by:

(1) the municipal works board;

(2) a board consisting of the members of the municipal legislative body;

(3) a utility service board established under subsection (f) or established before January 1, 1983, under IC 8-1-2-100 (repealed); or

(4) the board of directors of a department of waterworks established under IC 8-1.5-4.

The legislative body of a third class city also may adopt an ordinance under this subsection to provide for the control of any or all of its storm water facilities by a board described in subdivisions (1) through (4). An ordinance granting control of any or all of a third class city's storm water facilities to a board described in this subsection may be separate from or combined with an ordinance granting control of the third class city's municipally owned utilities to a board described in this subsection.

(b) If, at the time an ordinance is adopted under subsection (a) to grant control of any or all of a third class city's storm water facilities to a board described in subsection (a) the third class city has a department of storm water management under IC 8-1.5-5, the ordinance must specify a procedure for the transition of control of the affected storm water facilities from the board of directors of the department of storm water management to the board described in subsection (a).

(c) The registered voters of a municipality may file a petition addressed to the legislative body requesting that the question of the creation of a utility service board be submitted to a referendum. The

petition must be signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot.

(d) Within thirty (30) days after a petition is filed, the municipal clerk shall certify to the legislative body and to the county election board that a sufficient petition has been filed.

(e) Following certification, the legislative body shall submit the question of the creation of a utility service board to a referendum at the next election. The question shall be submitted to the registered voters of the municipality by placement on the ballot in the form prescribed by IC 3-10-9-4 and must state:

"Shall the legislative body of the municipality of _____ adopt an ordinance providing for the appointment of a utility service board to operate _____ (Insert name of utility here)?".

(f) If a majority of the voters voting on the question vote for the creation of a utility service board, the legislative body shall, by ordinance, establish a utility service board consisting of not less than three (3) nor more than seven (7) members. Not more than two-thirds (2/3) of the members may be of the same political party. All members must be residents of the area served by the board. The ordinance must provide for:

(1) a majority of the members to be appointed by the executive and a minority of the members to be appointed by the legislative body;

(2) the terms of the members, which may not exceed four (4) years, with initial terms prescribed so that the members' terms will be staggered;

(3) the salaries, if any, to be paid to the members; and

(4) the selection by the board of a chairman, who shall not be considered the head of a department for purposes of IC 36-4-9-2.

(g) The registered voters of the municipality may also file a petition requesting that the question of the abolition of the utility service board be submitted to a referendum. The procedure for filing of the petition and the referendum is the same as that prescribed by subsections (c) through (e).

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.16-1983, SEC.6; P.L.3-1987, SEC.500; P.L.12-1995, SEC.100; P.L.282-2003, SEC.1.

IC 8-1.5-3-3.3

Legalization of certain utility service boards

Sec. 3.3. For purposes of section 3 of this chapter, a utility service board that:

(1) was established before January 1, 1983, under IC 8-1-2-100 (before its repeal and formerly Acts 1913, c.76, s.109, as amended);

(2) has continued in existence without interruption since its creation; and

(3) was established without submitting the question of its

creation to the voters of the municipality for approval in a referendum;

is legalized and its actions validated.

As added by P.L.220-2011, SEC.187.

IC 8-1.5-3-4

Board; powers and duties

Sec. 4. (a) The board has general supervisory powers over the utilities under its control, with responsibility for the detailed supervision of each utility to be vested in its superintendent, who is responsible to the board for the business and technical operation of the utility. The board shall:

(1) fix the number and compensation of employees;

(2) adopt rules governing the appointment of employees including making proper classifications and rules to:

(A) determine the eligibility of applicants;

(B) determine by competitive examination the relative fitness of applicants for positions;

(C) establish eligible lists arranged according to the ratings secured;

(D) provide for the appointment of those having the highest ratings; and

(E) provide for the promotion of employees;

(3) subject to IC 36-4-9-2, appoint a superintendent or manager of each utility under its control who is responsible to the board for the business and technical operation of the utility; the board shall make the appointment on the basis of fitness to manage the particular utility to which he is to be assigned, taking into account his executive ability and his knowledge of the utility industry;

(4) subject to IC 36-4-9-12, hire attorneys when required for the operation of the utility;

(5) hire professional or expert personnel when required for the operation of the utility;

(6) submit a budget of its financial needs for the next year in the detail required by the municipal legislative body;

(7) recommend to the legislative body reasonable and just rates and charges for services to the patrons of each utility;

(8) appropriate, lease, rent, purchase, and hold all real and personal property of the utility;

(9) enter upon lands for the purpose of surveying or examining the land to determine the location of any plant or appurtenances;

(10) award contracts for:

(A) the purchase of capital equipment;

(B) the construction of capital improvements; or

(C) other property or purposes that are necessary for the full and efficient construction, management, and operation of each utility;

(11) adopt rules for the safe, economical, and efficient management and protection of each utility;

(12) deposit at least weekly with the municipal fiscal officer all money collected from each utility to be kept in a separate fund subject to the order of the board; and

(13) make monthly reports to the fiscal officer of the receipts and disbursements of money belonging to each utility and an annual report of the condition of the utility.

(b) The board may purchase by contract electricity, water, gas, power, or any other commodity or service for the purpose of furnishing the commodity or service to the patrons of the municipally owned utility or to the municipality itself.

(c) If the board wants to purchase the commodity or service from a public utility and the parties cannot agree on a rate or charge to be paid for it, either party may apply to the commission or other appropriate state or federal regulatory agency to establish a fair and reasonable rate or charge to be paid for the commodity or service.

(d) The board may discontinue water service by a waterworks to:

(1) a water consumer; or

(2) any property;

upon failure by the water consumer or the property owner to pay charges legally due for sewer or sewage disposal plant service. However, the water service may not be discontinued for nonpayment of sewer or sewage disposal plant service charges until the charges have been due and unpaid for at least thirty (30) days.

(e) Before water service is discontinued under subsection (d), the board must give written notice to the water consumer or property owner of its intention to discontinue water service if the unpaid sewer or sewage disposal plant service charges are not paid before a date specified in the notice. The notice must be mailed not less than ten (10) days before water service is to be discontinued and addressed to the water consumer or the property owner at his last known address.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-4.5

Application of section; bid, proposal, or quotation submitted by trust

Sec. 4.5. (a) This section applies to the award of a contract under this chapter by acceptance of bids, proposals, or quotations.

(b) A bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.
As added by P.L.336-1989(ss), SEC.19.

IC 8-1.5-3-5

Superintendent; powers and duties; compensation; bond; removal

Sec. 5. (a) The superintendent of each utility shall:

(1) appoint, supervise, and dismiss all employees of the utility;

(2) employ unskilled labor when needed, without competitive examination;

(3) investigate all claims against the utility;

(4) oversee the operation of the utility and any construction work, repairs, or alterations to the system; and

(5) advise the board in all matters that will bring about an efficient and economical operation and maintenance of the utility.

(b) The superintendent is entitled to the compensation for his services that is determined by resolution of the board.

(c) The superintendent shall give bond in a sum not less than double the estimated amount of money that may be in his hands at any time. The bond shall be conditioned upon the faithful discharge of his duties and the payment to the proper person of all money in his hands. The bond is subject to the approval of the executive of the municipality.

(d) The superintendent may be removed by the board for cause at any time after notice and a hearing.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-6

Load building appliances; purchase; sale and advertisement

Sec. 6. (a) The board may purchase, sell, and advertise, for the purpose of sale, load building appliances.

(b) Load building appliances shall be designed to be used in:

(1) the consumption of the products; or

(2) the use of the services;

that the utility furnishes or is equipped to furnish to its customers.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-7

Retirement account

Sec. 7. The board may set up a retirement account for the benefit of the employees and past employees of each utility. The board may provide for the method, manner, and amount of contributions by the utility out of its earnings, reserves, or earned surplus, and by employees if required by the plan, and may create an account for the utilities and allocate to the account contributions sufficient to establish the plan on a sound actuarial basis, including contributions for past services of employees. However, the plan may not require contributions from an employee to exceed six percent (6%) of his wage or salary.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-8

Rates and charges

Sec. 8. (a) A municipality owning a utility under this chapter shall furnish reasonably adequate services and facilities.

(b) The rates and charges made by a municipality for a service rendered or to be rendered, either directly or in connection therewith, must be nondiscriminatory, reasonable, and just.

(c) "Reasonable and just rates and charges for services" means rates and charges that produce sufficient revenue to:

(1) pay all the legal and other necessary expenses incident to the operation of the utility, including:

(A) maintenance costs;

(B) operating charges;

(C) upkeep;

(D) repairs;

(E) depreciation;

(F) interest charges on bonds or other obligations, including leases; and

(G) costs associated with the acquisition of utility property under IC 8-1.5-2;

(2) provide a sinking fund for the liquidation of bonds or other obligations, including leases;

(3) provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals;

(4) provide adequate money for working capital;

(5) provide adequate money for making extensions and replacements to the extent not provided for through depreciation in subdivision (1); and

(6) provide money for the payment of any taxes that may be assessed against the utility.

(d) It is the intent of this section that the rates and charges produce an income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service. Rates and charges too low to meet these requirements are unlawful.

(e) The board may recommend to the municipal legislative body rates and charges sufficient to include a reasonable return on the utility plant of the municipality.

(f) Rates and charges established under this section are subject to the approval of:

(1) the municipal legislative body by ordinance; and

(2) the commission, in accordance with the procedures set forth in IC 8-1-2.

The commission shall approve rates and charges that are sufficient, in addition to the cash revenue requirements set forth in subsection (c), to include a reasonable return on the utility plant of the municipality if the legislative body so elects.

(g) Except for a municipally owned utility taxed under IC 6-1.1-8-3, the commission shall approve rates and charges sufficient to compensate the municipality for taxes that would be due the municipality on the utility property were it privately owned. These rates and charges in lieu of taxes may be transferred to the municipal general fund, if the legislative body so elects.

(h) The commission shall grant a request that an increase in rates and charges not be effective until after the occurrence of a future event if the legislative body so requests.

(i) A municipality that acquires and operates a utility under

IC 8-1.5-2 by exercising the power of eminent domain may not impose a special rate, charge, surcharge, or other fee, other than rates and charges approved under this section or otherwise authorized by law, on the customers of the utility in order to pay for the costs associated with acquiring the utility through the exercise of the power of eminent domain.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.105-1983, SEC.2; P.L.35-1990, SEC.28; P.L.172-2009, SEC.5.

IC 8-1.5-3-8.1

Hearings; adoption of rates and charges; notice; contents

Sec. 8.1. (a) As used in this section, "utility" refers to a municipally owned:

(1) water utility;

(2) wastewater utility; or

(3) combined water and wastewater utility;

that is not under the jurisdiction of the commission for the approval of rates and charges.

(b) As used in this section, "works" refers to water or wastewater utility works.

(c) After the introduction of the ordinance establishing the rates and charges under section 8 of this chapter, but before the ordinance is finally adopted, the municipal legislative body shall hold a public hearing at which users of the works, owners of property served or to be served by the works, and other interested persons may be heard concerning the proposed rates and charges. Notice of the hearing, setting forth the proposed schedule of rates and charges, shall be:

(1) published in accordance with IC 5-3-1 (IC 5-3-1-1 through IC 5-3-1-9);

(2) mailed to owners of vacant or unimproved property if the ordinance includes a fee for water or wastewater service to vacant or unimproved property; and

(3) mailed to users of the works for service to property located outside the municipality's corporate boundaries.

The notice may be mailed in any form so long as the notice of hearing is conspicuous. The hearing may be adjourned from time to time. Notice mailed under subdivision (3) must include a statement that, following adoption of the ordinance, the users described in subdivision (3) may be entitled to petition the commission under section 8.3 of this chapter to review and adjust the rates and charges imposed on the users if a petition under section 8.2 of this chapter or under IC 36-9-23-26.1 with respect to the same rate ordinance has not been filed.

(d) After the hearing, the municipal legislative body shall adopt the ordinance establishing the rates and charges, either as originally introduced or as modified. A copy of the schedule of rates and charges adopted shall be kept on file and available for public inspection in the offices of the board and the municipal clerk. An ordinance adopted after March 31, 2012, that imposes different rates and charges for service to property located outside the corporate

boundaries of the municipality as compared to property located within the corporate boundaries of the municipality must state in plain language the percentage difference between the rates and charges.

(e) The rates and charges established for any class of users or property shall be extended to cover any additional property that is subsequently served and falls within the same class, without any hearing or notice.

(f) The municipal legislative body may change or readjust the rates and charges in the same manner as they were established.

(g) Rates and charges collected under this chapter are considered revenues of the utility.

As added by P.L.77-1991, SEC.1. Amended by P.L.139-2012, SEC.1.

IC 8-1.5-3-8.2

Objections to rates and charges; bonds; hearings

Sec. 8.2. (a) As used in this section:

(1) "utility"; and

(2) "works";

have the meaning set forth for those terms in section 8.1 of this chapter.

(b) Owners of property connected or to be connected to and served by the works authorized under this chapter may file a written petition objecting to the rates and charges of the utility so long as:

(1) the petition contains the names and addresses of the petitioners;

(2) the petitioners attended the public hearing provided under section 8.1 of this chapter;

(3) the written petition is filed with the municipal legislative body within five (5) days after the ordinance establishing the rates and charges is adopted under section 8.1 of this chapter;

(4) the written petition states specifically the ground or grounds of objection; and

(5) a petition has not been filed with the commission under section 8.3 of this chapter or under IC 36-9-23-26.1 appealing the same rates and charges of the utility.

(c) Unless the objecting petition is abandoned, the municipal clerk shall file in the office of the clerk of the circuit or superior court of the county a copy of the rate ordinance or ordinances together with the petition. The court shall then set the matter for hearing at the earliest date possible, which must be within twenty (20) days after the filing of the petition with the court. The court shall send notice of the hearing by certified mail to the municipality and to the first signer of the petition at the address shown on the petition. All interested parties shall appear in the court without further notice, and the municipality may not conduct any further proceedings concerning the rates and charges until the matters presented by the petition have been heard and determined by the court.

(d) At the discretion and upon direction of the court, the petitioners shall file with the petition a bond in the sum and with the

security fixed by the court. The bond must be conditioned on the petitioners' payment of all or part of the costs of the hearing and any damages awarded to the municipality if the petition is denied, as ordered by the court.

(e) Upon the date fixed in the notice, the court shall, without a jury, hear the evidence produced. The court may confirm the decision of the municipal legislative body or sustain the objecting petition. The order of the court is final and conclusive upon all parties to the proceeding and parties who might have appeared at the hearing, subject only to the right of direct appeal. All questions that were presented or might have been presented are considered to have been adjudicated by the order of the court, and no collateral attack upon the decision of the municipal legislative body or order of the court is permitted.

(f) If the court sustains the petition, or if the petition is sustained on appeal, the municipal legislative body shall set the rates and charges in accordance with the decision of the court.

As added by P.L.77-1991, SEC.2. Amended by P.L.139-2012, SEC.2.

IC 8-1.5-3-8.3

Objection to extraterritorial rates and charges; review by commission

Sec. 8.3. (a) This section applies to a utility that provides service to property located outside the corporate boundaries of the municipality.

(b) As used in this section:

(1) "utility"; and

(2) "works";

have the meaning set forth for those terms in section 8.1 of this chapter.

(c) This subsection applies if a municipal legislative body adopts an ordinance under section 8.1 of this chapter or under IC 36-9-23-26 that is in effect on March 31, 2012, and that imposes rates and charges on users of the works for service to property located outside the corporate boundaries of the municipality that exceed by more than fifteen percent (15%), but not more than fifty percent (50%), the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality. Not later than September 30, 2012, the municipality may petition the commission to approve the percentage difference between rates and charges established in the ordinance for property within and property outside the corporate boundaries. In the petition, the municipality shall set forth the following:

(1) The date on which the ordinance took effect.

(2) The percentage difference between rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and to property located within the corporate boundaries of the municipality.

(3) Whether the works that is the subject of the ordinance is a

water utility works, a wastewater utility works, or both a water and wastewater utility works.

If the commission determines that a petition filed under this subsection satisfies the requirements of this subsection, the commission shall approve the petition, including the percentage difference between rates and charges described in subdivision (2). If the commission determines that a petition filed under this subsection does not satisfy the requirements of this subsection, the commission shall disapprove the petition. However, if the percentage difference imposed in the ordinance was the subject of an objecting petition that was filed under section 8.2 of this chapter or under IC 36-9-23-26.1 and sustained on final judgment or appeal, as applicable, by a court, the percentage difference is considered approved without the filing of a petition under this subsection.

(d) If a municipality that files, or that is exempt from filing, a petition under subsection (c) adopts an ordinance under section 8.1 of this chapter or under IC 36-9-23-26 after March 31, 2012, that imposes rates and charges on users of the works for service to property located outside the corporate boundaries of the municipality that exceed the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality by more than the sum of the percentage difference approved or considered approved by the commission under subsection (c) plus fifteen percent (15%), either or both of the following may petition the commission to review and adjust, if necessary, the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality:

(1) The municipality.

(2) The lesser of:

(A) ten percent (10%) of all; or

(B) twenty-five (25);

users of the works whose property is located outside the corporate boundaries of the municipality.

A petition filed under this subsection must be filed not more than fourteen (14) days after the date on which the ordinance referred to in this subsection is adopted. A petition may not be filed under this subsection if a petition has already been filed under section 8.2 of this chapter appealing the same rates and charges.

(e) If a municipal legislative body, other than a municipal legislative body described in subsection (c), adopts an ordinance under section 8.1 of this chapter or under IC 36-9-23-26 after March 31, 2012, that imposes rates and charges on users of the works for service to property located outside the corporate boundaries of the municipality that exceed the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality by more than fifteen percent (15%), either or both of the following may petition the commission to review and adjust, if necessary, the rates and charges imposed on users of the works for service to property located outside the corporate

boundaries of the municipality:

(1) The municipality.

(2) The lesser of:

(A) ten percent (10%) of all; or

(B) twenty-five (25);

users of the works whose property is located outside the corporate boundaries of the municipality.

A petition must be filed not more than fourteen (14) days after the date on which the ordinance is adopted. A petition may not be filed under this subsection if a petition has already been filed under section 8.2 of this chapter or under IC 36-9-23-26.1 appealing the same rates and charges.

(f) The filing of a petition with the commission under subsection (d), (e), or (m) stays the ordinance adopted under section 8.1 of this chapter or under IC 36-9-23-26. The rates and charges in effect before the adoption of the ordinance remain in effect until:

(1) the commission approves or disapproves the petition; and

(2) if applicable, the commission adjusts the rates and charges imposed by the ordinance on users of the works whose property is located outside the corporate boundaries of the municipality.

(g) The commission shall prescribe the form and manner in which a petition must be filed under subsection (d), (e), or (m). A petition filed under subsection (d)(2), (e)(2), or (m)(2) must be signed by:

(1) each individual user seeking review by the commission; or

(2) one (1) or more attorneys licensed to practice law in Indiana who represent the individual users seeking review by the commission.

The burden of proof to demonstrate that the proposed rates and charges are nondiscriminatory, reasonable, and just is on the municipality, regardless of who petitions the commission. The commission shall approve or disapprove a petition within one hundred twenty (120) days after the petition is filed in the form and manner prescribed by the commission. However, the commission may extend the one hundred twenty (120) day deadline for up to sixty (60) days for good cause if all parties to the proceeding agree. A petition is automatically disapproved if the petitioner has filed a petition under section 8.2 of this chapter or under IC 36-9-23-26.1 with respect to the same rate ordinance.

(h) For purposes of determining whether the percentage difference between rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality is nondiscriminatory, reasonable, and just under section 8 of this chapter, the commission:

(1) may consider the benefit and expense to all users of the works of extending the works outside the corporate boundaries of the municipality; and

(2) may not consider any connection fees or capital surcharges imposed on users of the works for service to property that is

located outside the corporate boundaries of the municipality that are specifically designated to pay for the costs associated with main extensions to the users of the works.

(i) If the commission determines that the percentage difference between the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality is not nondiscriminatory, reasonable, and just under section 8 of this chapter, the commission may:

(1) establish nondiscriminatory, reasonable, and just rates and charges for users of the works for service to property located outside the corporate boundaries of the municipality; and

(2) order the municipal legislative body to adopt an ordinance imposing the nondiscriminatory, reasonable, and just rates and charges.

However, with respect to rates and charges imposed in an ordinance that was the subject of an objecting petition filed under section 8.2 of this chapter or under IC 36-9-23-26.1 and sustained on final judgment or appeal, as applicable, by a court, the commission may not establish rates and charges such that the percentage difference between rates and charges established by the commission is less than the percentage difference between rates and charges imposed in the ordinance.

(j) This section does not:

(1) authorize the commission to review or revise rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality; or

(2) otherwise return or subject a utility to the jurisdiction of the commission for the approval of rates and charges.

(k) The commission may adopt rules under IC 4-22-2 to implement this section.

(l) The commission may not impose a fee with respect to proceedings under this section.

(m) This subsection applies if a municipal legislative body, other than a municipal legislative body described in subsection (c), adopts an ordinance under section 8.1 of this chapter or under IC 36-9-23-26 that is in effect on March 31, 2012, and that imposes rates and charges on users of the works for service to property located outside the corporate boundaries of the municipality that exceed by more than fifty percent (50%) the rates and charges imposed on users of the works for service to property located anywhere within the corporate boundaries of the municipality. Not later than December 31, 2013, either or both of the following may petition the commission to review and adjust, if necessary, the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality:

(1) The municipality.

(2) Subject to subsection (n), the lesser of:

(A) ten percent (10%) of all; or

(B) twenty-five (25);

users of the works whose property is located outside the corporate boundaries of the municipality.

(n) At least twenty (20) days before a group of users described in subsection (m)(2) may petition the commission under subsection (m), the group of users must file the petition with the municipal legislative body. The municipal legislative body and the group of users shall attempt to resolve the issues set forth in the petition concerning the rates and charges imposed on the group of users. If the group of users and the municipal legislative body are unable to resolve the issues within ten (10) days, the group of users may petition the commission under subsection (m).

As added by P.L.139-2012, SEC.3. Amended by P.L.163-2013, SEC.1; P.L.270-2013, SEC.8.

IC 8-1.5-3-9

Removal of utility from jurisdiction of commission for approval of rates and charges; procedure

Sec. 9. (a) This subsection applies to a municipally owned utility that before June 1, 1987, was taken out of the jurisdiction of the commission for the approval of rates and charges. A utility to which this subsection applies is removed from the jurisdiction of the commission for approval of the issuance of stocks, bonds, notes, or other evidence of indebtedness.

(b) Except as provided in subsection (a), a municipal legislative body that wants to be taken out of the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness may submit the following public question to the registered voters of the municipality at the next election in the form prescribed by IC 3-10-9-4:

"Shall the municipally owned utility be taken out of the jurisdiction of the utility regulatory commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?".

(c) A municipal legislative body shall certify the public question to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3 and submit the question under subsection (b) if it receives a petition that:

(1) is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) requests that the municipally owned utility be removed from the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness.

(d) If a majority of those voting favor taking the municipally owned utility out of the jurisdiction of the commission, the utility:

(1) is removed from the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness; and

(2) shall mail written notice of the withdrawal from commission jurisdiction to the commission within thirty (30) days after the utility's withdrawal.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.124-1987, SEC.1; P.L.23-1988, SEC.62; P.L.10-1988, SEC.217; P.L.12-1995, SEC.101.

IC 8-1.5-3-9.1

Removal of utility from jurisdiction of commission for approval of rates, charges, and evidences of indebtedness; alternative procedure

Sec. 9.1. (a) This section applies to the following:

(1) Water utilities that are owned or operated by second class cities.

(2) Third class cities.

(3) Towns.

(b) In addition to section 9 of this chapter, a municipally owned utility to which this section applies may be removed from the jurisdiction of the commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness, if the municipal legislative body adopts an ordinance removing the utility from commission jurisdiction. The municipal legislative body shall, at least thirty (30) days before the final vote on the ordinance, mail written notice of the meeting to all ratepayers of the utility and to the commission. For a second class city the municipal legislative body must hold two (2) public meetings before the final vote on an ordinance removing the utility from commission jurisdiction may be adopted. An explanation of the removal process must be provided at each public meeting under this section. Each public meeting must be held in a different location.

(c) The ordinance described in subsection (b) takes effect sixty (60) days after adoption by the municipal legislative body.

(d) The question of removal from commission jurisdiction shall be submitted to the registered voters of the municipality if, within the sixty (60) day period described in subsection (c), the legislative body receives a petition:

(1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) that requests the legislative body to submit the question of removal from commission jurisdiction to the registered voters of the municipality at the next election.

The municipal legislative body shall certify the public question in subsection (e) to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3.

(e) If the legislative body receives a petition described in subsection (d) in the proper form, the legislative body shall submit the following public question to the registered voters of the municipality at the next election in the form prescribed by

IC 3-10-9-4:

> "Shall the municipally owned utility be taken out of the jurisdiction of the Indiana utility regulatory commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?".

The legislative body shall mail written notice of the referendum to the commission at least ten (10) days before the date of the election.

(f) If a majority of those voting on the question described in subsection (e) favor taking the municipally owned utility out of the jurisdiction of the commission, the utility is removed from the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidences of indebtedness.

(g) If the legislative body receives a petition in proper form under subsection (d), the ordinance does not take effect until after removal is approved by a majority of those voting. If a majority of those voting vote against removal, the utility remains under the jurisdiction of the commission and the ordinance does not take effect.

(h) In addition to the notice required by subsection (b), if the municipal legislative body adopts the ordinance, described in subsection (b), the municipal legislative body shall mail written notice of the withdrawal from commission jurisdiction to the commission within thirty (30) days after the ordinance becomes effective.

(i) Notwithstanding this section or section 9 of this chapter, the commission may require a municipally owned utility that generates electric power to provide information to the permanent forecasting group under IC 8-1-8.5-3.5.

(j) This section does not affect the obligations of a municipally owned utility under IC 8-1-2.3, IC 8-1-8.5, IC 8-1-22.5, or IC 8-1.5-3-14.

(k) Notwithstanding subsection (a) and the procedure set forth in section 9 of this chapter, if a city adopts an ordinance under this section before January 1, 2013, to remove the city's municipally owned electric utility from the jurisdiction of the commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness, the removal of the city's municipally owned electric utility from the commission's jurisdiction for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness is effective for all purposes and is legalized and validated.

As added by P.L.82-1988, SEC.6. Amended by P.L.77-1991, SEC.3; P.L.12-1995, SEC.102; P.L.163-2013, SEC.2.

IC 8-1.5-3-9.5

Return of utility to commission jurisdiction following removal

Sec. 9.5. (a) This section applies to municipally owned utilities that are withdrawn from commission jurisdiction under section 9 of this chapter, including a municipally owned utility described in section 9(a) of this chapter.

(b) A municipal legislative body that wants to return a municipally owned utility to the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness may submit the following public question to the registered voters of the municipality at the next election in the form prescribed by IC 3-10-9-4:

"Shall the municipally owned utility be returned to the jurisdiction of the utility regulatory commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?".

(c) A municipal legislative body shall certify the public question to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3. The county election board shall submit the question under subsection (b) if it receives a petition that:

(1) is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) requests that the municipally owned utility be returned to the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness.

(d) If a majority of those voting favor returning the municipally owned utility to the jurisdiction of the commission, the utility is returned to the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness. If a majority of those voting disapprove of returning the municipally owned utility to the jurisdiction of the commission, an election may not be conducted on the public question of returning to the jurisdiction of the commission for four (4) years from the date of the last election on that public question.

(e) The public question of returning to the jurisdiction of the commission may not be submitted to the registered voters of the municipality at an election conducted within four (4) years after the date the municipally owned utility was last withdrawn from commission jurisdiction.

(f) If a municipally owned utility is returned to the jurisdiction of the commission under this section, the municipal legislative body shall mail written notice to the commission.

As added by P.L.82-1988, SEC.7. Amended by P.L.12-1995, SEC.103.

IC 8-1.5-3-9.6

Return of utility to commission jurisdiction following removal under alternative procedure

Sec. 9.6. (a) This section applies to municipally owned utilities that are withdrawn from commission jurisdiction under section 9.1 of this chapter.

(b) The municipal legislative body may adopt an ordinance returning the municipally owned utility to the jurisdiction of the

commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness if it receives a petition:

(1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) that requests the legislative body to adopt an ordinance returning the municipally owned utility to the jurisdiction of the commission.

If the municipal legislative body fails to adopt an ordinance under this subsection within ninety (90) days after receipt of the petition, a petition requesting the adoption of an ordinance to return to commission jurisdiction may not be submitted for four (4) years from the date the last petition was submitted under this subsection.

(c) If the municipal legislative body fails to adopt the ordinance described in subsection (b) within ninety (90) days after receipt of the petition, the public question of the return to commission jurisdiction shall be submitted to the registered voters of the municipality if the legislative body receives a second petition:

(1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot;

(2) that requests the legislative body to submit the question of the return to commission jurisdiction to the registered voters of the municipality at the next election; and

(3) that is submitted to the legislative body after the expiration of the ninety (90) day period described in this subsection.

The municipal legislative body shall certify the public question described in subsection (d) to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3.

(d) If the legislative body receives a petition described in subsection (c) in the proper form, the legislative body shall submit the following public question to the registered voters of the municipality at the next election in the form prescribed by IC 3-10-9-4:

"Shall the municipally owned utility be returned to the jurisdiction of the utility regulatory commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?".

The legislative body shall mail written notice of the referendum to the commission at least ten (10) days before the date of the election.

(e) If a majority of those voting on the question described in subsection (d) favor returning the municipally owned utility to the jurisdiction of the commission, the utility is returned to the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness. If a majority of those voting disapprove of returning the municipally owned utility to the jurisdiction of the commission, an election may not be conducted on the public question of returning

to the jurisdiction of the commission for four (4) years from the date of the last election on that public question.

(f) The public question of returning to the jurisdiction of the commission may not be submitted to the registered voters of the municipality at an election conducted within four (4) years after the date the municipally owned utility was last withdrawn from commission jurisdiction. In addition, a petition requesting the adoption of an ordinance under subsection (b) may not be submitted within four (4) years after the date the municipally owned utility was last withdrawn from commission jurisdiction.

(g) If a municipally owned utility is returned to commission jurisdiction under this section, the municipal legislative body shall mail written notice to the commission.

As added by P.L.82-1988, SEC.8. Amended by P.L.12-1995, SEC.104.

IC 8-1.5-3-10

Rates and charges; electric service outside corporate boundaries

Sec. 10. Whenever a municipality operates an electric utility that provides service outside the corporate boundaries of the municipality, the charges for service outside the corporate boundaries may not differ from the charges for service inside the corporate boundaries unless the utility clearly demonstrates significant cost factors that make different charges nondiscriminatory, reasonable, and just.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-11

Funds; management

Sec. 11. (a) The money belonging to each municipally owned utility shall be kept by the municipal fiscal officer as separate funds as required by any bond ordinance or accounting procedures established by the commission or the state board of accounts. The municipal legislative body, with the approval of the board, may transfer surplus earnings of the utility to the general fund. The money may not, however, be transferred unless the terms and conditions of any bond ordinance, resolution, indenture, contract under IC 8-1-2.2, or similar instrument binding upon the utility are complied with.

(b) A cash reserve fund shall be created by ordinance and carried on the records of the utility or utilities by providing for monthly contributions or transfers to the cash reserve fund of surplus earnings of the utility or utilities.

(c) "Surplus earnings" are those cash earnings remaining after provision has been made to take care of current obligations, including:

(1) operating expense;

(2) depreciation or replacement fund;

(3) bond and interest sinking fund;

(4) retirement fund; or

(5) any other priority fund requirements fixed by law.

(d) After creation of the cash reserve fund, the legislative body

may include in the municipal general fund budget, as revenue in lieu of taxes, an amount equal to the actual balance in the cash reserve fund as of June 30 of the current year. However, the available cash reserve fund balance may be transferred to the municipal general fund only during the calendar year for which the budget was adopted, and transfers may not be made from any utility funds to the general fund except from the cash reserve fund.

(e) If at any time after the final approval of the budget an emergency should arise for further appropriations from the general fund, the legislative body may, by ordinance, transfer additional money from the cash reserve fund to the general fund to provide for the additional appropriations, the transfer to be limited to the accretions to the cash reserve fund since the preceding June 30.

(f) A cash reserve fund, if authorized by ordinance, may be used to make loans to another utility owned by the same municipality, for periods not to exceed five (5) years, at any interest rate. The repayment of the loan and interest shall be returned to the cash reserve fund.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-12

Loan from utility to municipality; loan requirements; limitation on amount

Sec. 12. (a) A municipality may, by ordinance of its legislative body, borrow money from a utility owned by the municipality for any of the following purposes:

(1) Current purposes in anticipation of taxes levied and to be collected during the current or following year.

(2) Carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the municipality.

(b) The board may by resolution lend money to the municipality if the utility has on hand:

(1) a surplus of cash exceeding by at least the amount loaned the sum of all amounts required to pay the indebtedness of the utility falling due during the current calendar year and the following year;

(2) the amount necessary to meet current expenses during the year; and

(3) the amount necessary to pay for improvements contemplated to be made during the current calendar year minus the estimated receipts during the calendar year.

(c) A loan made under subsection (a)(1) may not be made for a sum in excess of fifty percent (50%) of the amount estimated to be collected from anticipated taxes.

(d) A loan under this section:

(1) must be evidenced by an obligation of the municipality;

(2) must be signed by the executive;

(3) is due:

(A) on or before thirty (30) days after the last day for the payment of anticipated taxes, in the case of a loan made

under subsection (a)(1); and

(B) on a date determined by the board (but not more than six (6) years after the date of the loan), in the case of a loan made under subsection (a)(2); and

(4) may bear interest at any rate as determined by the board, payable at maturity.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.88-2009, SEC.2.

IC 8-1.5-3-13

Investments of surplus money; authorization of officers

Sec. 13. The municipal legislative body may, by ordinance, authorize officers charged by law with custodial care, expenditure, and investment of utility money to invest or reinvest surplus money of a utility in the manner prescribed by IC 5-13-9.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.19-1987, SEC.20.

IC 8-1.5-3-14

Annual report; exemption; examination of accounts

Sec. 14. (a) A municipally owned utility under the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness shall file with the commission an annual report of the operation of the plant on forms prescribed by the commission. The annual reports shall be kept in the office of the commission as a public record. A municipally owned utility that has withdrawn from commission jurisdiction under IC 8-1-2-100 (before its repeal on January 1, 1983) or section 9 or 9.1 of this chapter is not required to file the annual report required by this section.

(b) The state board of accounts shall examine all accounts of every municipally owned utility at regular intervals. In the examination, inquiry shall be made as to:

(1) the financial condition and resources of the utility;

(2) whether the laws of the state have been complied with; and

(3) the methods and accuracy of the accounts and reports of the utilities examined.

The examination shall be made without notice, and its cost shall be paid out of the funds of the utility.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.68-1990, SEC.2.

IC 8-1.5-3-15

Utilities operated under IC 8-1-11.1; rights and powers

Sec. 15. A utility operated under IC 8-1-11.1 retains the rights and powers conferred by IC 8-1-11.1-3.1, notwithstanding section 1 of this chapter.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3.5

Chapter 3.5. Water Bill Adjustments for Undetected Leaks

IC 8-1.5-3.5-1

"Unusually large bill"

Sec. 1. As used in this chapter, "unusually large bill" means a residential water bill that reflects monthly water usage, in whatever units measured, that is at least two (2) times the customer's average monthly usage at the premises.

As added by P.L.53-2004, SEC.1. Amended by P.L.2-2005, SEC.26.

IC 8-1.5-3.5-2

"Utility"

Sec. 2. As used in this chapter, "utility" refers to a water utility owned or operated by a municipality.

As added by P.L.53-2004, SEC.1. Amended by P.L.2-2005, SEC.27.

IC 8-1.5-3.5-3

Utility's discretion to adjust unusually large bill when excess usage caused by undetectable damage to equipment

Sec. 3. Notwithstanding IC 8-1-2-103(a), a utility may adjust an unusually large bill if the excess usage reflected in the bill is caused by physical damage to any facility or equipment supplying water to the premises and the damage:

(1) is not visible or detectable on the customer's premises except upon excavation or some other disturbance of the property; and

(2) is not the result of an act of the customer, or of any agent or contractor hired by the customer.

As added by P.L.53-2004, SEC.1.

IC 8-1.5-3.5-4

Adjustments to be in accordance with policies adopted by utility

Sec. 4. A utility that elects to adjust unusually large bills must do so in accordance with policies adopted by the utility. The utility's policies must specify the procedures by which a customer may request an adjustment and prove the damage described in section 3 of this chapter.

As added by P.L.53-2004, SEC.1.

IC 8-1.5-4

Chapter 4. Department of Waterworks in Certain Municipalities

IC 8-1.5-4-0.3

Effective date of certain amendments made to section 14 of this chapter

Sec. 0.3. Notwithstanding the amendments made to section 14 of this chapter by P.L.93-1993, in the case of a public utility that is described in IC 8-1-2-103(c), as amended by P.L.93-1993, the effective date for the implementation of the amendments made to section 14 of this chapter by P.L.93-1993 is July 1, 1993.
As added by P.L.220-2011, SEC.188.

IC 8-1.5-4-1

Application of chapter

Sec. 1. This chapter applies to all municipalities that:

(1) own or operate waterworks; and

(2) adopt the provisions of this chapter by ordinance.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-1.5

Certain municipalities operating a waterworks through a department before January 1, 1982

Sec. 1.5. (a) A municipality having and operating a waterworks through a department of waterworks before January 1, 1982, under IC 19-3-15 (before its repeal on January 1, 1983) or under IC 19-3-27 (before its repeal on January 1, 1983) shall be deemed to have established a department of waterworks, as authorized by section 2 of this chapter, having the same number of board members as the board operating before January 1, 1982, and having the same powers, obligations, and duties as would be the case if the legislative body of the municipality had adopted an ordinance doing so before January 1, 1983, in accordance with Acts 1982, P.L.74, SECTION 5(b).

(b) Except as provided in subsection (c), the board of directors of the department of waterworks shall operate as both the board and the municipal legislative body for the purposes of IC 8-1.5-3-4 and IC 8-1.5-3-8.

(c) This subsection applies to water utilities that have been removed from the jurisdiction of the Indiana utility regulatory commission under IC 8-1.5-3-9.1 after June 30, 1991. The board of directors of the department of waterworks shall operate as the board for the purposes of IC 8-1.5-3-4 and IC 8-1.5-3-8.
As added by P.L.105-1983, SEC.3. Amended by P.L.16-1984, SEC.7; P.L.3-1990, SEC.29; P.L.56-1992, SEC.1.

IC 8-1.5-4-2

Department of waterworks; establishment; board of directors

Sec. 2. (a) If the legislative body of a municipality, by ordinance, adopts the provisions of this chapter, there is established a department

of waterworks to be controlled by a board of directors (referred to as "the board" in this chapter). The board consists of either three (3) or five (5) directors, as determined by ordinance, who shall be appointed by the municipal executive.

(b) In case there are three (3) directors, not more than two (2) may be of the same political party. In case there are five (5) directors, not more than three (3) may be of the same political party.

(c) The terms of directors shall be prescribed by ordinance, but initial terms must be prescribed so that the directors' terms will be staggered. Each director shall give a bond, which shall be fixed by the municipal fiscal officer and is subject to his approval.

(d) The executive may remove a director at any time when, in his judgment, it is for the best interest of the department.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-3

Special taxing district

Sec. 3. The department of waterworks has jurisdiction over a special taxing district (referred to as "the waterworks district" in this chapter) that consists of:

(1) in the case of a second class city located in a county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000), all the territory within that county; or

(2) in the case of any other municipality, all the territory within the corporate boundaries of the municipality, or the territory served by the waterworks if larger or smaller than the corporate boundaries.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.12-1992, SEC.59; P.L.170-2002, SEC.60; P.L.119-2012, SEC.84.

IC 8-1.5-4-4

Board; powers and duties

Sec. 4. The board has the powers and duties prescribed by IC 8-1.5-3-4. In addition, the board:

(1) may hold hearings following public notice;

(2) may make findings and determinations;

(3) may design, order, contract for or construct pumping plants or stations, filtration plants, reservoirs, water mains, hydrants, and other equipment, structures, and appurtenances and rebuild, equip, improve, extend, and repair plants, equipment, and structures;

(4) may build or have built all roads, levees, walls, or other structures that may be necessary or desirable in connection with waterworks;

(5) make all necessary or desirable improvements of the grounds and premises under its control;

(6) may issue and sell bonds for the construction, alteration, addition, or extension to the waterworks, in the manner prescribed by law, including the provisions of IC 8-1.5-2; and

(7) shall furnish an adequate supply of water to consumers within the waterworks district.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-5

Water filtration and service facilities; acquisition, construction, and operation; financing methods

Sec. 5. The acquisition, construction, installation, operation, and maintenance of facilities and land for water filtration and water service may be financed through proceeds from tax levies, proceeds of special taxing district bonds of the waterworks district, service rates, revenue bonds, or any other available funds.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-6

Authority to set aside revenues for operation and maintenance, a depreciation account, and payment of bonds

Sec. 6. The board may fix and set aside:

(1) the proportion of the revenues of the waterworks department necessary for reasonable and proper operation and maintenance;

(2) the proportion of the revenues for a proper and adequate depreciation account; and

(3) the fixed proportion of the revenues to be applied to the payment of the principal and interest of the authorized bonds.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-7

Revenues set aside for operation and maintenance

Sec. 7. (a) In fixing the proportion of the revenues of the waterworks department required for operation and maintenance, the board shall consider the cost of the operation and maintenance of the waterworks, and may not set aside into the special fund a greater amount of the revenues and proceeds than, in its judgment, is required for the operation and maintenance.

(b) If a surplus is accumulated in the operating and maintenance fund, and that surplus is equal to the cost of maintaining and operating the waterworks system during the remainder of the current calendar, operating, or fiscal year and during the next calendar, operating, or fiscal year, any excess over that surplus may be transferred by the board to either the depreciation account, to be used for any improvements, extensions, or additions to the waterworks, or to the bond and interest redemption account.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-8

Revenues set aside for payment of bonds

Sec. 8. (a) The fixed proportion set aside for the payment of the principal and interest of the authorized bonds shall, from month to month, as accrued and received, be set apart and paid into a special account identified as "the bond and interest redemption account".

(b) In fixing and determining the amount that is to be set aside for the payment of the principal and interest of the authorized bonds, the board may provide that the amount to be set aside and paid into the bond and interest redemption account for any year or years should not exceed a fixed sum, which must be at least sufficient to provide for the payment of the interest and principal of the bonds maturing and becoming payable in each year, together with a surplus or margin of ten percent (10%) in excess.

(c) If a surplus created in the bond and interest redemption account exceeds the interest and principal of any bonds becoming payable during the current calendar, operating, or fiscal year and during the next calendar, operating, and fiscal year, the board may transfer any excess over the surplus to either the operation and maintenance account, or the depreciation account, as the board may designate.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-9
Revenues set aside for depreciation account

Sec. 9. (a) The proportion set aside to the depreciation account shall be expended in making good depreciation in the waterworks or in new construction, extensions, or additions to the property of the waterworks.

(b) Any accumulations in the depreciation account may be invested by the board, and if invested, the income from the investment shall be carried in the depreciation account. The board may invest the funds in accordance with IC 5-13-9.
As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.19-1987, SEC.21.

IC 8-1.5-4-10
Secured debt or charge

Sec. 10. (a) The board may authorize and set apart bonds equal to the amount of any secured debt or charge subject to which a waterworks may be purchased or acquired in any proceeding, and shall set aside for interest and sinking fund from the income and revenue of the waterworks a sum sufficient to comply with the requirements of the instrument creating the lien or securing the charge.

(b) If the instrument does not make any provision, the board shall set aside into the secured-debt account from month to month for interest on the secured debt or charge an amount sufficient to provide for the payment of the interest on the secured debt or charge, and at the option of the board either an annual amount sufficient to retire the secured debt or charge at maturity or bonds issued under this chapter equal to the secured debt or charge. Any surplus after satisfying the secured debt or charge may be transferred to the bond and interest redemption account.

(c) Waterworks bonds set aside for a debt may, from time to time, be issued in an amount sufficient with the amount then in the sinking fund to pay and retire the debt or any part thereof. The bonds may not

be issued at less than par value in exchange for, or satisfaction of, the secured debt or charge, or may be sold in the manner provided by this chapter, and the proceeds applied in payment of the same at maturity or before maturity by agreement with the holder. A municipality acquiring a waterworks does not assume any liability for the payment of a secured debt or charge, other than the obligation to apply the revenues in the manner prescribed in the ordinance.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-11
Bonds and interest issued against special redemption fund

Sec. 11. (a) The bonds and the interest issued against the special redemption fund:

(1) are a valid claim of the holders only against that fund and the fixed proportion or amount of the revenues pledged to that fund; and

(2) are exempt from taxation in Indiana as provided by IC 6-8-5.

(b) The bonds may be issued either as registered bonds or as coupon bonds payable to bearer. Coupons and bearer bonds may be registered as to principal in the holder's name on the books of the municipality, registration being noted on the bond by the municipal clerk or other designated officer, after which no transfer is valid unless made on the books of the municipality by the registered holder and similarly noted on the bonds. Any bond so registered as to principal may be discharged from registration by being transferred to bearer, after which it is transferable by delivery but may be again registered as to principal as before. The registration of the bonds as to the principal does not restrain the negotiability of the coupons by delivery, but the coupons may be surrendered and the interest made payable only to the registered holder of the bonds. If the coupons are surrendered, the surrender and cancellation shall be noted on the bond, and interest on the bond is then payable to the registered holder on order in cash or at his option by check or draft payable at the place or one (1) of the places where the coupons were payable.

(c) Bonds shall be sold in accordance with IC 5-1-11.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-12
Bonds; additional issue or issues for extension, addition, or improvement

Sec. 12. A board acquiring waterworks and paying for them and for extensions and betterments authorized at the time of acquisition may provide for the extension, addition, or improvement of the waterworks by an additional issue or issues of bonds. A board may issue new bonds in the manner provided in this chapter and secured in the same manner, to provide funds for the payment of the principal and interest of any bonds then outstanding.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-13

Bonds; application of proceeds; default

Sec. 13. (a) All money received from bonds issued under this chapter shall be applied solely to the acquisition of the waterworks and the cost of the issuance of the bonds.

(b) Any holder of the bonds or of any of the coupons attached to them may, by action or other proceeding, compel performance of all duties required by this chapter of the board issuing the bonds or of any officer of the board, including the making and collecting of reasonable and sufficient rates lawfully established for service rendered by the waterworks, the segregation of the income and revenues of the utility, and the application of the respective funds created under this chapter.

(c) If there is any default in the payment of the principal or interest of any of the bonds, a court having jurisdiction of the action may:

(1) appoint an administrator or receiver to administer the waterworks on behalf of the municipality and the bondholders, with power to:

(A) charge and collect rates lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against the waterworks; and

(B) apply the income and revenues in conformity with this chapter and the ordinance; or

(2) declare the whole amount of the bonds due and payable and direct the sale of the waterworks.

Under a sale ordered as provided by subdivision (2), the purchaser is vested with an indeterminate permit as defined in IC 8-1-2-1 to maintain and operate the waterworks to supply water to the municipality and its citizens.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-14

Services rendered to municipality; payment

Sec. 14. (a) This subsection applies to a municipality that is not subject to IC 8-1-2-103(c) or has not adopted an ordinance to become subject to IC 8-1-2-103(d). The reasonable cost and value of any service rendered to the municipality by the waterworks by furnishing water for public purposes or by maintaining hydrants and other facilities for fire protection shall be:

(1) charged against the municipality; and

(2) paid for in monthly installments as the service accrues out of the current revenues of the municipality, collected or in process of collection, and the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

(b) This subsection applies to a municipality that is subject to IC 8-1-2-103(c), that has adopted an ordinance to become subject to IC 8-1-2-103(d), or that has adopted a plan described in IC 8-1-2-103(d) as prescribed in IC 8-1-2-103(e). The reasonable cost and value of any service rendered to the municipality by the waterworks by furnishing water for public purposes shall be:

(1) charged against the municipality; and

(2) paid for in monthly installments as the service accrues out of the current revenues of the municipality, collected or in process of collection, and the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

Except as provided in subsection (d), the cost and value of maintaining hydrants and other facilities for fire protection shall be excluded from the charges against the municipality and shall be recovered from the other customers of the waterworks beginning on January 1, 1994, in a municipality subject to IC 8-1-2-103(c) and beginning on a date provided in the ordinance for a municipality that adopts an ordinance under IC 8-1-2-103(d). The change in the recovery of current revenue authorized by this section shall be reflected in a schedule of new rates to be filed with the commission at least thirty (30) days before the time the schedule of new rates is to take effect.

(c) The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be paid into the separate and special fund created by setting aside the income and revenues of the waterworks and is subject to apportionment to the operating, maintenance, depreciation, and bond and interest redemption accounts.

(d) This subsection applies to a city having a population of more than forty-seven thousand (47,000) but less than forty-nine thousand (49,000). The cost and value of maintaining hydrants and other facilities for fire protection may be recovered from customers of the waterworks residing in either of the following, beginning on a date determined by the city:

(1) In a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(2) In a township having a population of more than nine thousand (9,000) but less than nine thousand five hundred (9,500) located in a county having a population of more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000).

The city shall file a new schedule of rates with the commission as set forth in subsection (b), but is not subject to commission approval of the rates.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.93-1993, SEC.2; P.L.80-1997, SEC.18; P.L.133-1998, SEC.1; P.L.170-2002, SEC.61; P.L.119-2012, SEC.85.

IC 8-1.5-4-15

Construction, extension, or improvement; procedure

Sec. 15. (a) If, upon investigation, the board finds:

(1) that the waterworks, plant, system, or equipment is insufficient to furnish the necessary supply of water to properly protect the public health and welfare and safeguard the property within the waterworks district; or

(2) that it is necessary to rebuild, repair, extend, and improve the waterworks, plant, systems, and equipment and to acquire lands, construct, erect, or acquire other plants, reservoirs, systems, and other structures and equipment appurtenant to them;

the board shall prepare maps, plans, specifications, and drawings with full details and descriptions for the proposed work, together with an estimate of the cost. The board shall also prepare a description of all property rights necessary to be acquired in connection with the proposed work and the manner in which the rights are to be acquired, whether by purchase or appropriation, along with a description of any other lands that may be injuriously affected, together with the estimated cost.

(b) The board shall then adopt a resolution:

(1) declaring that it is necessary for the protection of the public health and welfare of the inhabitants of the waterworks district and the safeguarding of the property within the district;

(2) declaring that it is of public utility and benefit;

(3) appropriating the property described in the resolution;

(4) stating the maximum proposed cost of any land to be purchased; and

(5) adopting plans, maps, specifications, drawings, details, descriptions, and estimates.

(c) If the resolution is adopted, the board shall publish a notice in accordance with IC 5-3-1 of the adoption, the resolution, and the fact that plans, specifications, and estimates have been prepared and can be inspected. The notice must also name a date, not less than ten (10) days after the date of the last publication, when the board will receive or hear remonstrances from the persons interested in, or affected by, the resolution, and when it will determine their public utility and benefit. Notice shall be mailed to the owners of all lands appropriated by the resolution. If a landowner is a nonresident and his place of residence is known, a notice shall be mailed to the nonresident owner. If the nonresident owner's residence is unknown to the board, then he is considered notified of the pendency of the proceedings by the publication of notice.

(d) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased or to be purchased, or to be appropriated or damaged, to give a description of the entire tract, whether it is one (1) or more lots or parcels and whether it is owned by one (1) or more persons.

(e) All persons affected by the proceedings, including all taxpayers in the waterworks district, are considered to be notified of the proceedings and all subsequent acts, hearings, adjournments, and orders of the board by the original publication of notice.

(f) The board may, before adoption of the resolution, obtain from the owners of the land an option for its purchase or may enter into a contract for its purchase after an appraisal by two (2) qualified land surveyors. Such an option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-16

Lands, rights-of-way, or other property; ownership in name of municipality; remonstrances

Sec. 16. (a) All lands, rights-of-way, or other property, when acquired, either by purchase or appropriation, shall be taken and held in the name of the municipality.

(b) At the time fixed for the hearing or before the hearing, the following persons may file a written remonstrance with the board:

(1) The owner of land, rights-of-way, or other property to be appropriated under the resolution.

(2) A person injuriously affected by the appropriation.

(3) A person owning real or personal property within the waterworks district.

(c) The board shall hear all persons interested in the proceedings, hear all the remonstrances that have been filed, and take final action on the resolution. The final action shall be recorded.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-17

Appeals

Sec. 17. (a) A person who has remonstrated in writing and is aggrieved by the decision of the board may, within thirty (30) days, take an appeal to the circuit or superior court of the county in which the waterworks district is located.

(b) A remonstrator desiring to appeal from the action of the board shall, within thirty (30) days after the final action of the board, file in the office of the clerk of the circuit or superior court a copy of the order of the board and the remonstrance, together with a bond conditioned to pay the costs of the appeal, should the appeal be determined against him.

(c) The court may hear the appeal only if the question is whether the board acted arbitrarily or capriciously in adopting the resolution.

(d) The cause shall be tried to the court without a jury.

(e) All remonstrances upon which appeals are taken may be consolidated and heard as one (1) claim for relief by the court.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-18

Special taxing district bonds of the waterworks district; issuance

Sec. 18. (a) To procure money to pay for the required property and the erection and construction of the proposed work, and in anticipation of the collection of the special benefit tax, the board may issue, in the name of the municipality, the special taxing district bonds of the waterworks district. The bonds may exceed the total cost of the work and property to be acquired as provided for in the resolution, including:

(1) all expenses necessarily incurred for supervision and inspection during the period of construction; and

(2) expenses actually incurred preliminary to the acquiring of the necessary property and the construction of the work, including the cost of records, engineering expenses, publication of notices, salaries, and other expenses incurred, before and in connection with the acquiring of the property, the letting of the contract, and the sale of bonds.

(b) After adopting a resolution authorizing the bonds, the board shall certify a copy of the resolution to the municipal fiscal officer, who shall then prepare the bonds. The bonds shall be executed by the municipal executive and attested by the fiscal officer. The bonds are exempt from taxation as provided by IC 6-8-5. All bonds issued by the board shall be sold by the fiscal officer under IC 5-1-11.

(c) The board may not issue bonds of the waterworks district, payable by special taxation, when the total of the outstanding bonds of the district, including the bonds already issued and to be issued, exceeds eight percent (8%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15.

(d) The bonds are not a corporate obligation or indebtedness of the municipality, but are an indebtedness of the waterworks district. The bonds and interest are payable out of a special benefit tax levied upon all of the property of the waterworks district, or by any other means including revenues, cash on hand, and cash in depreciation or reserve accounts.

(e) The bonds must recite the terms upon their face, together with the purpose for which they are issued. An action to question the validity of the bonds issued for the waterworks district or to prevent their issuance may not be brought after the date fixed for the sale of the bonds.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.6-1997, SEC.131.

IC 8-1.5-4-19

Tax levy

Sec. 19. (a) To raise the necessary revenues to pay for the bonds issued, and interest on the bonds, the board:

(1) may levy a special benefit tax upon all the property of the waterworks district in the amount necessary to meet and pay the principal of the bonds as they severally mature, together with all accruing interest; and

(2) shall certify the tax levied each year to the fiscal officers of the municipality and of the county in which the waterworks district is located, at the same time the levy of the municipality is certified.

The tax levied and certified shall be estimated and entered upon the tax duplicate and shall be collected and enforced in the same manner as state and county taxes are estimated, entered, collected, and enforced.

(b) In fixing the amount of the necessary levy, the board:

(1) shall consider the amount of revenues derived by the board from the operation of the waterworks plant and system under its

jurisdiction above the amount of revenues required to pay the cost of operation and maintenance of the waterworks plant and system; and

(2) may, in lieu of making the levy in this section, set aside, by resolution, a specific amount of the surplus revenues to be collected before maturity of the principal and interest of the bonds payable in the following calendar year.

(c) The special tax shall be accumulated and kept in a separate fund to be known as the "waterworks district bond fund", and applied to the payment of the district bonds and interest as they severally mature and are payable. All accumulations in the fund before their use for the payment of bonds and interest shall be deposited at interest with the depository of other public funds of the municipality, and all interest collected belongs to that fund.

(d) If the board adopts the resolution, the board may not use any part of the amount set aside out of its net revenues for any purpose other than the monthly payment of the bonds and interest to the sinking fund. Any amount of net revenues derived from the operation of the waterworks plant and system under the jurisdiction of the board, not required for the payment of the principal and interest on the outstanding waterworks district bonds, shall be paid over to the municipality and deposited in the sinking fund established for the purpose of redeeming and retiring outstanding bonds that the municipality may have issued for the benefit of its waterworks plant. This section does not relieve the municipality from the obligation to pay outstanding bonds according to their terms and conditions.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-5

Chapter 5. Department of Storm Water Management

IC 8-1.5-5-1

Application of chapter

Sec. 1. This chapter applies to each:

(1) municipality; and

(2) county that:

(A) does not have a consolidated city; and

(B) receives notification from the department of environmental management that the county will be subject to storm water regulation under 327 IAC 15-13;

that adopts the provisions of this chapter by ordinance.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.2.

IC 8-1.5-5-1.5

Definitions

Sec. 1.5. The definitions in IC 36-1-2 apply throughout this chapter.

As added by P.L.282-2003, SEC.3.

IC 8-1.5-5-2

"Board" defined

Sec. 2. As used in this chapter, "board" means the following:

(1) For a consolidated city, the board of public works established by IC 36-3-5-6.

(2) For all other municipalities, the:

(A) board of directors described in section 4 of this chapter; or

(B) board that controls the third class city's municipally owned utilities under IC 8-1.5-3-3(a) if the city has adopted an ordinance under IC 8-1.5-3-3(a) that provides for the control of any or all of the city's storm water facilities by the board that controls the city's municipally owned utilities.

(3) For a county:

(A) the county executive; and

(B) the county surveyor.

As added by P.L.125-1987, SEC.1. Amended by P.L.93-1993, SEC.3; P.L.98-1993, SEC.1; P.L.282-2003, SEC.4.

IC 8-1.5-5-3

"Department" defined

Sec. 3. As used in this chapter, "department" means the following:

(1) For a consolidated city, the department of public works.

(2) For all other municipalities, the department of storm water management established under section 4 of this chapter.

(3) For a county, the department of storm water management established under section 4.5 of this chapter.

As added by P.L.125-1987, SEC.1. Amended by P.L.93-1993, SEC.4;

P.L.98-1993, SEC.2; P.L.282-2003, SEC.5.

IC 8-1.5-5-3.5
"District" defined

Sec. 3.5. As used in this chapter, "district" means the special taxing district established by section 5 of this chapter.
As added by P.L.93-1993, SEC.5 and P.L.98-1993, SEC.3.

IC 8-1.5-5-4
Board of storm water management; directors

Sec. 4. (a) This section applies to all municipalities except a consolidated city.

(b) If the legislative body of a municipality adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.

(c) Except as provided in subsections (f) and (g), the board consists of three (3) directors. The executive of the municipality shall appoint the directors, not more than two (2) of whom may be of the same political party.

(d) Except as provided in subsections (f) and (g), the legislative body shall prescribe, by ordinance, the terms of the directors. However, the legislative body must prescribe the initial terms of the directors so that they will be staggered.

(e) The executive may remove a director at any time when, in the judgment of the executive, it is for the best interest of the department.

(f) If a second class city has a department of public sanitation under IC 36-9-25, the executive of the city may appoint the members of the board of sanitary commissioners as the board of directors of the department of storm water management. The terms of the members of the board of directors are the same as the terms of the members of the board of sanitary commissioners under IC 36-9-25-4.

(g) If a third class city:

(1) has a board that controls the city's municipally owned utilities under IC 8-1.5-3-3(a); and

(2) has adopted an ordinance under IC 8-1.5-3-3(a) that provides for the control of any or all of the city's storm water facilities by the board that controls the city's municipally owned utilities;

the members of the board that controls the city's municipally owned utilities shall serve as the board of directors of the department of storm water management, subject to any transition procedure specified in the ordinance under IC 8-1.5-3-3(b). The terms of the members of the board of directors are the same as the terms of the members of the board that controls the city's municipally owned utilities under IC 8-1.5-3-3(a), subject to the completion of any transition procedure specified in the ordinance under IC 8-1.5-3-3(b).

(h) A member of the board of directors of the department of storm water management who:

(1) is appointed under subsection (f); or

(2) is a member of the board under subsection (g) and receives a salary as a member of the board that controls the third class

city's municipally owned utilities;
is not entitled to a salary for serving as a member of the board of directors of the department of storm water management. However, a member shall be reimbursed for necessary expenses incurred by the member in the performance of official duties.
As added by P.L.125-1987, SEC.1. Amended by P.L.93-1993, SEC.6; P.L.98-1993, SEC.4; P.L.5-1998, SEC.1; P.L.282-2003, SEC.6.

IC 8-1.5-5-4.5
County department of storm water management; board of directors; compensation

Sec. 4.5. (a) This section applies to a county.

(b) If the county executive adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.

(c) An ordinance adopted under this section shall provide for the appointment of:

(1) the members of the county executive; and

(2) the county surveyor;

as the board of directors of the department. The term of office of a member of the board who is appointed from the membership of the county executive is coextensive with the member's term of office on the county executive. The term of the surveyor or the surveyor's designee as a member of the board is coextensive with the surveyor's term of office.

(d) A member of the board of directors is not entitled to a salary or per diem for serving as a member of the board of directors. However, a member shall be reimbursed for necessary expenses incurred by the member in the performance of official duties.
As added by P.L.282-2003, SEC.7.

IC 8-1.5-5-5
Special taxing district

Sec. 5. (a) The ordinance adopting the provisions of this chapter creates a special taxing district that includes the following:

(1) For a consolidated city, all of the territory of the county containing the consolidated city.

(2) For all other municipalities, all territory within the corporate boundaries of the municipality.

(3) For a county, all the territory in the county that is not located in a municipality.

(b) All the territory within the district constitutes a special taxing district for the purpose of providing for the collection and disposal of storm water of the district in a manner that protects the public health and welfare and for the purpose of levying special benefit taxes for purposes of storm water collection and disposal. All territory in the district and all territory added to the district is considered to have received a special benefit from the storm water collection and disposal facilities of the district equal to or greater than the special taxes imposed on the territory under this chapter in order to pay all

or part of the costs of such facilities.
As added by P.L.125-1987, SEC.1. Amended by P.L.93-1993, SEC.7; P.L.98-1993, SEC.5; P.L.282-2003, SEC.8.

IC 8-1.5-5-6
Powers of board

Sec. 6. The board has the powers and duties prescribed by IC 8-1.5-3-4(a). In addition, the board may:

(1) hold hearings following public notice;

(2) make findings and determinations;

(3) install, maintain, and operate a storm water collection and disposal system;

(4) make all necessary or desirable improvements of the grounds and premises under its control; and

(5) issue and sell bonds of the district in the name of the unit served by the department for the acquisition, construction, alteration, addition, or extension of the storm water collection and disposal system or for the refunding of any bonds issued by the board.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.9.

IC 8-1.5-5-7
Financing of facilities; user fees

Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

(1) proceeds of special taxing district bonds of the storm water district;

(2) the assumption of liability incurred to construct the storm water system being acquired;

(3) service rates;

(4) revenue bonds; or

(5) any other available funds.

(b) Except as provided in IC 36-9-23-37, the board, after holding a public hearing with notice given under IC 5-3-1 and obtaining the approval of the fiscal body of the unit served by the department, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system. The amount of the user fees must be the minimum amount necessary for the operation and maintenance of the storm water system. The assessment and collection of user fees under this subsection by the board of a county must also be approved by the county executive.

(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.

(d) The board shall use one (1) or more of the following factors to establish the fees authorized by this section:

(1) A flat charge for each lot, parcel of property, or building.

(2) The amount of impervious surface on the property.

(3) The number and size of storm water outlets on the property.

(4) The amount, strength, or character of storm water discharged.

(5) The existence of improvements on the property that address storm water quality and quantity issues.

(6) The degree to which storm water discharged from the property affects water quality in the storm water district.

(7) Any other factors the board considers necessary.

(e) The board may exercise reasonable discretion in adopting different schedules of fees or making classifications in schedules of fees based on:

(1) variations in the costs, including capital expenditures, of furnishing services to various classes of users or to various locations;

(2) variations in the number of users in various locations; and

(3) whether the property is used primarily for residential, commercial, or agricultural purposes.

As added by P.L.125-1987, SEC.1. Amended by P.L.176-2002, SEC.6; P.L.282-2003, SEC.10; P.L.114-2008, SEC.3.

IC 8-1.5-5-8

Fixing and setting aside revenues

Sec. 8. The board may fix and set aside:

(1) revenues of the department necessary for reasonable and proper operation and maintenance;

(2) revenues for a proper and adequate depreciation account; and

(3) revenues to be applied to the payment of the principal and interest of the authorized bonds.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-9

Maintenance account; surplus

Sec. 9. (a) In fixing the revenues of the department required for operation and maintenance, the board shall consider the cost of the operation and maintenance of the department.

(b) If a surplus is accumulated in the operating and maintenance account, the board may transfer any excess over that surplus to:

(1) the depreciation account, to be used for any improvements, extensions, or additions to the storm water system; or

(2) the bond and interest redemption account.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-10

Bond and interest redemption account; surplus

Sec. 10. (a) The revenues set aside for the payment of the principal and interest of the authorized bonds shall be deposited and credited to a special account identified as "the bond and interest redemption account".

(b) In determining the amount that is to be set aside for the payment of the principal and interest of the authorized bonds, the board may provide that the amount to be set aside and paid into the bond and interest redemption account for any year or years should not exceed a fixed sum, which must be at least sufficient to provide for the payment of the interest and principal of the bonds maturing and becoming payable in each year.

(c) If a surplus is created in the bond and interest redemption account, the board may transfer any excess over the surplus to:

(1) the operation and maintenance account; or

(2) the depreciation account.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-11

Depreciation account; use of revenues

Sec. 11. The revenues set aside to the depreciation account shall be expended for:

(1) the repair of the storm water system;

(2) new acquisition, construction, extensions, or additions to the property of the storm water system; or

(3) transfer to the bond and interest redemption account to prevent a default.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-12

Assumption and payment of liability upon acquisition of storm water system

Sec. 12. (a) If the board acquires a storm water system and assumes the liability incurred by the seller to construct the storm water system, the principal and interest on the liability so assumed shall be paid from the bond and interest redemption account in the same manner as bonds of the district would be paid, and the board shall set aside sufficient revenues to comply with the requirements of the instrument creating the liability.

(b) A unit acquiring a storm water system may not assume any liability for the payment of a secured debt or charge other than the obligation to apply the revenues in the manner prescribed in the ordinance.

(c) The board may issue bonds in exchange for, or satisfaction of, the liability assumed in the acquisition of a storm water system. The bonds so issued may not be issued at less than ninety-seven percent (97%) of the par value thereof in exchange for, or satisfaction of, the liability. Notwithstanding section 13(c) of this chapter, bonds issued in exchange for, or satisfaction of, the liability need not be sold in accordance with IC 5-1-11. However, the interest rate on such bonds may not exceed the average yield on municipal revenue bonds of comparable credit rating and maturity as of the end of the week immediately preceding the issuance of the bonds.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.11.

IC 8-1.5-5-13
District bonds; nature

Sec. 13. (a) The bonds of the district are:

(1) a valid claim of the holders only against the bond and interest redemption account and the revenues of the storm water system; and

(2) exempt from taxation in Indiana as provided by IC 6-8-5.

(b) The bonds may be issued either as registered bonds or as coupon bonds payable to the bearer.

(c) Except as provided in this chapter or IC 5-1-5, bonds shall be sold in accordance with IC 5-1-11. The registration of bonds does not affect negotiability.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-14
Bond issue

Sec. 14. A board acquiring a storm water system and paying for it and for extensions and betterments authorized at the time of acquisition may provide for the combined cost in one (1) issue of bonds. The board shall issue and secure the bonds in the manner provided in this chapter to provide funds for the original construction of a storm water system.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-15
Use of bond proceeds; actions to compel performance; actions upon default

Sec. 15. (a) All money received from bonds issued under this chapter shall be applied solely to the acquisition, construction, repair, and maintenance of the storm water system, the cost of the issuance of the bonds, and the creation of any reserve for the bonds.

(b) Any holder of the bonds may bring a civil action to compel performance of all duties required by this chapter of the board issuing the bonds or of any officer of the board, including the following:

(1) Making and collecting reasonable and sufficient user fees lawfully established for service rendered by the storm water system.

(2) Segregating the income and revenues of the department.

(3) Applying the respective funds created under this chapter.

(c) If there is any default in the payment of the principal or interest of any of the bonds, a court having jurisdiction of the action may:

(1) appoint an administrator or receiver to administer the storm water system on behalf of the unit served by the department and the bondholders, with power to:

(A) charge and collect user fees lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against the storm water system; and

(B) apply the income and revenues in conformity with this chapter and the ordinance; or

(2) declare the whole amount of the bonds due and payable and direct the sale of the storm water system.

Under a sale ordered under subdivision (2), the purchaser is vested with an indeterminate permit as defined in IC 8-1-2-1 to maintain and operate the storm water system to collect and dispose of storm water for the unit served by the department and its citizens.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.12.

IC 8-1.5-5-16

Charge for services in a municipality; deposit of funds

Sec. 16. (a) This section applies to a municipality.

(b) The reasonable cost and value of any service rendered to the municipality by the storm water system by furnishing storm water collection and disposal shall be:

(1) charged against the municipality; and

(2) paid for as the service accrues out of:

(A) the current revenues of the municipality, collected or in process of collection; or

(B) the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

(c) The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.13.

IC 8-1.5-5-16.5

Charge for services in a county; deposit of funds

Sec. 16.5. (a) This section applies to a county.

(b) The reasonable cost and value of any service rendered to the county by the storm water system by furnishing storm water collection and disposal shall be:

(1) charged against all the territory in the county, except territory within a municipality; and

(2) paid for as the service accrues out of:

(A) the current revenues of the county, collected or in process of collection; or

(B) the tax levy of the county made by the county to raise money to meet the county's necessary current expenses.

(c) The compensation for the service provided to the county shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

As added by P.L.282-2003, SEC.14.

IC 8-1.5-5-17

Proposed projects; resolution; notice to property owners; preadoption contracts for purchase

Sec. 17. (a) If, upon investigation, the board finds that:

(1) the storm water system is insufficient to furnish the

necessary collection and disposal of storm water to properly protect the public health and welfare and safeguard the property within the district; or

(2) it is necessary to acquire, construct, rebuild, repair, extend, and improve the storm water system and equipment, to acquire lands, or to construct, erect, or acquire other systems and other structures and equipment appurtenant to them;

the board shall prepare maps, plans, specifications, and drawings with full details and descriptions for the proposed work, together with an estimate of the cost. The board shall also prepare a description of all property rights necessary to be acquired in connection with the proposed work and the manner in which the rights are to be acquired, whether by purchase or appropriation, along with a description of any other property that may be injuriously affected, together with the estimated cost.

(b) The board shall then adopt a resolution approving the project by:

(1) declaring that it is necessary for the protection of the public health and welfare of the inhabitants of the storm water district and the safeguarding of the property within the district;

(2) declaring that it is of public utility and benefit;

(3) appropriating the property described in the resolution;

(4) stating the maximum proposed cost of any land to be purchased; and

(5) adopting plans, maps, specifications, drawings, details, descriptions, and estimates.

(c) If the resolution is adopted, the board shall publish a notice in accordance with IC 5-3-1 of the adoption of the resolution and of the fact that plans, specifications, and estimates have been prepared and can be inspected. The notice must also name a date, not less than ten (10) days after the date of the last publication, when the board will receive or hear remonstrances from the persons interested in, or affected by, the resolution, and when it will determine the public utility and benefit of the project. Notice shall be mailed to the owners of all property appropriated by the resolution. If a landowner is a nonresident and the landowner's place of residence is known, a notice shall be mailed to the nonresident owner. If the nonresident owner's residence is unknown to the board, then the owner is considered notified of the pendency of the proceedings by the publication of notice.

(d) Separate descriptions of each piece or parcel of land are not required in the resolution and notice, but it is a sufficient description of the property purchased or to be purchased, or to be appropriated or damaged, to give a description of the entire tract, whether it is one (1) or more lots or parcels and whether it is owned by one (1) or more persons.

(e) All persons affected by the proceedings, including all taxpayers in the storm water district, are considered to be notified of the proceedings and all subsequent acts, hearings, adjournments, and orders of the board by the original publication of notice.

(f) The board may, before adoption of the resolution, obtain from the owners of the property an option for its purchase or may enter into a contract for its purchase after an appraisal by two (2) qualified land appraisers. An option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution.
As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-18
Remonstrances

Sec. 18. (a) At the time fixed for the hearing or before the hearing, the following persons may file a written remonstrance with the board:

(1) The owner of real property, rights-of-way, or other property to be appropriated under the resolution.

(2) A person injuriously affected by the appropriation.

(3) A person owning real or personal property within the storm water district.

(b) The board shall:

(1) hear all persons interested in the proceedings;

(2) hear all the remonstrances that have been filed; and

(3) take action to confirm, modify, or reject the resolution.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-19
Appeal

Sec. 19. (a) A person who has remonstrated in writing and is aggrieved by the decision of the board may, within thirty (30) days, take an appeal to the circuit or superior court of the county in which the storm water district is located.

(b) A remonstrator desiring to appeal the action of the board shall, within thirty (30) days after the final action of the board, file in the office of the clerk of the circuit or superior court a copy of the order of the board and the remonstrance, together with a bond conditioned to pay the costs of the appeal, should the appeal be determined against the remonstrator.

(c) The court may hear the appeal only if the question is whether the board acted arbitrarily or capriciously in adopting the resolution.

(d) The cause shall be tried by the court without a jury.

(e) All remonstrances upon which appeals are taken may be consolidated and heard as one (1) claim for relief by the court.
As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-20
Property held in name of unit served by the department

Sec. 20. All real property, rights-of-way, or other property acquired by purchase or appropriation shall be taken and held in the name of the unit served by the department.
As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.15.

IC 8-1.5-5-21

Bonds for proposed work projects

Sec. 21. (a) To procure money to pay for the required property and the acquisition, erection, and construction of the proposed work, and in anticipation of the collection of the special benefit tax, the board may issue, in the name of the unit served by the department, special taxing district bonds of the storm water district. The bonds may not exceed the total estimated cost of the work and property to be acquired as provided for in the resolution, including:

(1) all expenses necessarily incurred for supervision and inspection during the period of construction; and

(2) expenses actually incurred preliminary to the acquiring of the necessary property and the construction of the work, including the cost of records, engineering expenses, publication of notices, salaries, and other expenses incurred, before and in connection with the acquiring of the property, the letting of the contract, and the sale of bonds.

(b) After adopting a resolution authorizing the bonds, the board shall certify a copy of the resolution to the fiscal officer, who shall then prepare the bonds. The executive shall execute the bonds, and the fiscal officer shall attest the bonds.

(c) The board may not issue bonds of the storm water district, payable by a special benefit property tax, when the total of the outstanding bonds of the district that are payable from a special benefit property tax, including the bonds already issued and to be issued, exceeds eight percent (8%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15. For purposes of this section, bonds are not considered to be outstanding bonds if the payment has been provided for by an irrevocable deposit in escrow of government obligations sufficient to pay the bonds when due or called for redemption.

(d) The bonds are not a corporate obligation or indebtedness of the unit but are an indebtedness of the storm water district. The bonds and interest are payable:

(1) out of a special benefit tax levied upon all of the property of the storm water district; or

(2) by any other means including revenues, cash on hand, and cash in depreciation or reserve accounts.

(e) The bonds must recite the terms upon their face, together with the purpose for which they are issued.

As added by P.L.125-1987, SEC.1. Amended by P.L.6-1997, SEC.132; P.L.282-2003, SEC.16.

IC 8-1.5-5-22

Special benefit tax

Sec. 22. (a) To raise the necessary revenues to pay for the bonds issued and the interest on the bonds, the board:

(1) after approval by the fiscal body of the unit served by the department, shall levy a special benefit tax upon all the property of the storm water district in the amount necessary to meet and pay the principal of the bonds as they severally mature, together

with all accruing interest; and

(2) shall certify the tax levied each year to the fiscal officer of the unit served by the department at the same time and in the same manner as other levies of the unit are certified.

The tax levied and certified shall be estimated and entered upon the tax duplicate and shall be collected and enforced in the same manner as state and county taxes are estimated, entered, and enforced.

(b) In fixing the amount of the necessary levy, the board:

(1) shall consider the amount of revenues derived by the board from the operation of the storm water system under its jurisdiction above the amount of revenues required to pay the cost of operation and maintenance of the storm water system; and

(2) may, in lieu of making the levy in this section, set aside by resolution a specific amount of the surplus revenues to be collected before maturity of the principal and interest of the bonds payable in the following calendar year.

(c) The special tax shall be deposited in the bond and interest redemption account.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.17.

IC 8-1.5-5-23

Approval of bond issuance by unit served by the department; applicability of IC 6-1.1-20

Sec. 23. (a) The board may not issue any bonds authorized by this chapter until it has secured the approval for the issuance of the bonds from the fiscal body of the unit served by the department.

(b) IC 6-1.1-20 applies to the issuance of bonds under this chapter which are or may be payable from the special benefit property tax.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.18.

IC 8-1.5-5-24

Combined sanitary sewer and storm water system projects

Sec. 24. (a) Whenever work on a storm water system (that is combined with a sanitary sewer system) necessitates the repair or replacement of all or part of a sanitary sewer system, the entity that owns or maintains the sanitary sewer system shall assume a proportionate share of the cost of repairing or replacing the sanitary sewer system.

(b) The board and the entity that owns or manages the sanitary sewer system shall negotiate the division of the costs described in subsection (a).

(c) If the parties cannot agree to a division of the costs, they shall petition the circuit court of the county where the majority of the systems are located to divide the costs. The circuit court shall hold a hearing on the division of costs within sixty (60) days after receiving the petition. The court shall publish notice of the hearing in accordance with IC 5-3-1. The decision of the court is binding on

both parties.
As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-25
Use of bond payment revenues; pledge of user fees; reductions in fees

Sec. 25. (a) Revenues received by the department may be used to pay for bonds issued to acquire, construct, install, operate, and maintain facilities and land for storm water collection and disposal systems.

(b) If there are bonds outstanding for which user fees were pledged, the board may not rescind user fees or reduce them below a rate that would produce one hundred twenty-five percent (125%) of the highest annual debt service on the bonds issued under this chapter to their final maturity, based on an average of the immediately preceding three (3) years of user fee collections, if the user fees have been levied for the preceding three (3) years. If the user fees have not been levied for the preceding three (3) years, the board may not reduce user fees below a rate that would produce one hundred twenty-five percent (125%) of the highest debt service, based upon a study by a qualified public accountant or financial adviser.
As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-26
User fee pledges; effect of amendments or repeal of chapter

Sec. 26. With respect to bonds for which a pledge has been made under section 25 of this chapter, the general assembly covenants with the holders of these bonds that:

(1) this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the user fees under this chapter; and

(2) this chapter will not be amended in a manner that will change the purpose for which revenues from the user fees imposed under this chapter may be used;

as long as those bonds are outstanding.
As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-27
Maintenance of private property by the department

Sec. 27. If the department:

(1) uses private property for storm water collection or disposal; and

(2) obtains the consent of the owner of the private property to maintain the private property;

the department shall maintain the private property.
As added by P.L.282-2003, SEC.19.

IC 8-1.5-5-28
Screening of storm water outfalls

Sec. 28. A person may not be required to screen a storm water

outfall if the pipe diameter of the storm water outfall is less than twenty-four (24) inches.
As added by P.L.282-2003, SEC.20.

IC 8-1.5-5-29
Liens for unpaid fees

Sec. 29. (a) Subsections (c), (d), and (e) do not apply to a city that before January 1, 2005, adopted an ordinance establishing procedures for the collection of unpaid user fees under this chapter through the enforcement of a lien.

(b) Fees assessed against real property under this chapter constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (c) and (d), the lien attaches when notice of the lien is filed in the county recorder's office under section 30 of this chapter.

(c) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If property is conveyed before a lien is filed, the department shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not more than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

(d) A lien attaches against real property occupied by someone other than the owner only if the department notifies the owner not later than twenty (20) days after the time the user fees become sixty (60) days delinquent. A notice sent to the owner under this subsection must be sent by first class mail or by certified mail, return receipt requested (or an equivalent service permitted under IC 1-1-7-1) to:

(1) the owner of record of real property with a single owner; or

(2) at least one (1) of the owners of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice of the delinquency, or to another address specified by the owner, in a written notice to the department, at which the owner requests to receive a notice of delinquency under this subsection. The cost of sending notice under this subsection is an administrative cost that may be billed to the owner.

(e) The department shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.
As added by P.L.131-2005, SEC.1. Amended by P.L.196-2014,

SEC.1.

IC 8-1.5-5-30

Collection of unpaid fees; recording of liens; fees, charges, and penalties

Sec. 30. (a) The board may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days. However, in the case of property that is occupied by someone other than the owner, this subsection does not relieve the department of its duty under section 29(d) of this chapter to notify the owner not later than twenty (20) days after the time user fees become sixty (60) days delinquent.

(b) Except as provided in subsection (k), the board shall enforce payment of fees imposed under this chapter. As often as the board determines necessary in a calendar year, the board shall prepare either of the following:

(1) A list of the delinquent fees and penalties that are enforceable under this section. The list must include the following:

(A) The name of the owner of each lot or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown by the records of the county auditor.

(C) The amount of the delinquent fees, together with the penalty.

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) An officer of the board shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall mail by certified mail, or by another delivery service providing proof of delivery, to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. A service charge of five dollars ($5), which is in addition to the recording fee charged under this subsection and under subsection (e), shall be added to each delinquent fee that is recorded.

(d) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the board shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (c), certify to the county auditor a list of the unpaid liens for collection with the next May installment of property taxes. The county and its officers and employees are not liable for any material error in the information on this list.

(e) The board shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(f) Upon receipt of the list under subsection (c), the county auditor

of each county shall add a fifteen dollar ($15) certification fee for each lot or parcel of real property on which fees are delinquent. The fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the district the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due not later than the due date of the next May installment of property taxes. The county treasurer shall include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(g) After certification of liens under subsection (d), the board may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor.

(h) If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(i) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the district. The county treasurer shall retain the service charges and certification fees that have been collected and shall deposit them in the county general fund.

(j) Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 29(e) of this chapter, files a verified demand with the county auditor.

(k) A board may write off a fee or penalty under subsection (a) that is less than forty dollars ($40).

As added by P.L.131-2005, SEC.2. Amended by P.L.196-2014, SEC.2.

IC 8-1.5-5-31

Foreclosure of liens

Sec. 31. (a) A district may foreclose a lien established by this chapter in order to collect fees and penalties. The district shall recover the amount of the fees and penalties, and a reasonable attorney's fee. The court shall order the sale to be made without relief from valuation or appraisement laws.

(b) Except as otherwise provided by this chapter, actions under this chapter are subject to the general statutes regarding municipal public improvement assessments.

As added by P.L.131-2005, SEC.3.

IC 8-1.5-5-32

Withdrawal from district by excluded municipality; notice; outstanding bonds; payments to municipality

Sec. 32. (a) This section applies to excluded cities and towns in a county containing a consolidated city.

(b) A municipality to which this section applies may withdraw from the district established by the consolidated city if the municipal legislative body adopts an ordinance withdrawing the municipality from the district. The municipal legislative body shall, at least thirty (30) days before the final vote on the ordinance, mail written notice of the meeting to the following:

(1) All owners of lots and parcels within the municipality that are subject to storm water user fees imposed in the district by the department of public works of the consolidated city.

(2) The department of public works of the consolidated city.

(c) An ordinance described in subsection (b) takes effect sixty (60) days after adoption by the municipal legislative body.

(d) In addition to the notice required by subsection (b), if a municipal legislative body adopts an ordinance under subsection (b), the municipal legislative body shall mail written notice of the withdrawal from the district to the department of public works of the consolidated city not more than thirty (30) days after the ordinance becomes effective.

(e) If on the date of a municipality's withdrawal from the district there are bonds outstanding that have been issued by the board of public works of the consolidated city, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the municipality bears to the assessed valuation of all property included in the district on the date one (1) day before the date of withdrawal, as shown in the most recent assessment for taxation before the date of withdrawal.

(f) If a municipal legislative body adopts an ordinance under subsection (b), the municipality is entitled to receive the following:

(1) An annual lump sum payment equal to the total amount of property taxes paid and allocated to the district's flood debt service fund from all property taxpayers within the municipality, to the extent the property taxes are not necessary to pay the indebtedness owed by the municipality under subsection (e). A payment under this subdivision is required for property taxes assessed beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(2) The total amount of storm water user fees collected by the department of public works of the consolidated city from the lots and parcels in the municipality beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(g) Payments received under subsection (f):

(1) shall be deposited by the municipality in a dedicated fund; and

(2) may be used by the municipality only for purposes of storm water management in the municipality and may not be diverted, directly or indirectly, in any manner to any use other than the

purposes of storm water management in the municipality.
As added by P.L.52-2006, SEC.1 and P.L.175-2006, SEC.1. Amended by P.L.154-2006, SEC.65.

IC 8-1.5-6

Chapter 6. Utility Service in Regulated Territories

IC 8-1.5-6-1

"Municipal utility"

Sec. 1. As used in this chapter, "municipal utility" refers to a municipally owned:

(1) water utility;

(2) wastewater utility; or

(3) combined water and wastewater utility;

regardless of whether the municipal utility is under the jurisdiction of the commission for the approval of rates and charges.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-2

"Regulated territory"

Sec. 2. As used in this chapter, "regulated territory" means the area outside the corporate boundaries of a municipality described in:

(1) IC 36-9-2-18;

(2) IC 36-9-2-19; or

(3) IC 36-9-23-36.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-3

"Regulatory ordinance"

Sec. 3. As used in this chapter, "regulatory ordinance" means an ordinance adopted by a municipality that:

(1) asserts the exclusive authority of a municipal utility to provide service within a regulated territory; or

(2) prohibits another utility from providing utility service in the regulated territory.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-4

"Utility"

Sec. 4. As used in this chapter, "utility" means a utility that provides:

(1) water service;

(2) wastewater service; or

(3) combined water and wastewater service;

regardless of whether the utility is under the jurisdiction of the commission for the approval of rates and charges. The term includes a municipal utility.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-5

"Wholesale sewage petition"

Sec. 5. As used in this chapter, "wholesale sewage petition" refers to a petition filed under IC 8-1-2-61.7 for review of rates and charges for wholesale sewage service.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-6
Jurisdiction of commission

Sec. 6. Notwithstanding any other provision in this title or IC 36, the offering or provision of service by a utility in a regulated territory is under the jurisdiction of the commission as set forth in sections 7, 8, 9, and 10 of this chapter.
As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-7
Resolution of service dispute

Sec. 7. (a) This section applies if:

(1) a municipality adopts a regulatory ordinance before January 1, 2013;

(2) a dispute arises or exists between a utility owned by the municipality and another utility as to which utility provides service to customers that connected to service provided by one (1) of the utilities:

(A) after the date on which the regulatory ordinance was adopted; and

(B) before March 15, 2014; and

(3) the utilities are unable to resolve a dispute described in subdivision (2) through mutual agreement.

(b) Not later than October 1, 2014, a utility shall petition the commission for resolution of the dispute. The petition must be in the form and manner prescribed by the commission. Upon the filing of the petition, the commission shall assume immediate and exclusive jurisdiction over the utilities for purposes of resolving the dispute.

(c) Upon assuming jurisdiction under subsection (b) and after notice and hearing, the commission shall issue an order resolving all issues presented in the petition described in subsection (b), including determining the manner in which the utilities shall provide service to the customers that are the subject of the dispute, in the manner that the commission determines is in the public interest. In making the determination, the commission shall consider the criteria set forth in section 8(g) of this chapter. The commission shall issue the order within three hundred (300) days after the petition described in subsection (b) is filed.
As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-8
Enforcement of regulatory ordinance by municipality whose utility has filed a wholesale sewage petition

Sec. 8. (a) This section applies if:

(1) a municipality adopts a regulatory ordinance after December 31, 2012; and

(2) a utility owned by the municipality files a wholesale sewage petition.

(b) A municipality may not enforce a regulatory ordinance until

all the following conditions are satisfied:

(1) There is a final judgment on the wholesale sewage petition that concludes all administrative and judicial proceedings. For purposes of this subdivision, a final judgment includes an order of the commission under subsection (f).

(2) The commission has issued an order under subsection (f) that resolves all issues included in a petition filed under subsection (d) in a manner that the commission determines is in the public interest.

(3) The municipality has modified the regulatory ordinance to comply with the order of the commission described in subdivision (2), if necessary.

(c) A utility may file with the commission a petition alleging that the final judgment of a court on the wholesale sewage petition does not resolve all issues included in the wholesale sewage petition that are related to:

(1) the service territory of the municipality; or

(2) rates and charges for wholesale sewage service.

The commission shall assume immediate and exclusive jurisdiction over the municipal utility upon the filing of the petition for purposes of resolving the remaining issues. After notice and hearing, the commission shall issue an order within three hundred (300) days after the petition is filed resolving all issues presented in the petition in the manner that the commission determines is in the public interest. In making a determination of the public interest, the commission shall consider the factors set forth in subsection (g). The commission may combine a hearing under this subsection with a hearing under subsection (f) and issue a single order on the combined hearing.

(d) Not later than October 1, 2014, a municipal utility shall petition the commission for approval of the regulatory ordinance. The petition must include the following:

(1) A description of the service territory established in the regulatory ordinance.

(2) Proposed rates and charges for the services to be provided in the service territory.

(3) A list of any administrative or judicial proceedings involving the regulatory ordinance or the wholesale sewage petition.

(4) A list of any utilities actually or potentially affected by the regulatory ordinance.

(e) Upon the filing of a petition described in subsection (d), the commission shall do the following:

(1) Encourage all utilities listed under subsection (d)(4) to reach a mutual agreement that apportions the provision of service in the regulated territory among the utilities. A mutual agreement described in this subdivision is the preferred method of establishing service territories in a regulated territory. To take effect, a mutual agreement must be approved by the commission in an order issued under subsection (f), and the commission may approve a mutual agreement only if the commission determines that the mutual agreement is in the public interest.

(2) If the utilities are unable to reach a mutual agreement under subdivision (1), the commission shall assume immediate and exclusive jurisdiction over the municipal utility, including the wholesale sewage petition if there is no final judgment from a court on the wholesale sewage petition.

(f) Upon assuming jurisdiction under subsection (e)(2) and after notice and hearing, the commission shall issue an order resolving:

(1) all issues presented in the petition described in subsection (d), including the enforceability of the regulatory ordinance; and

(2) any applicable issues presented in the wholesale sewage petition;

in the manner that the commission determines is in the public interest. The commission shall issue the order within three hundred (300) days after the petition described in subsection (d) is filed.

(g) In making a determination under subsection (f), the commission shall consider the following:

(1) The ability of another utility to provide service in the regulated territory.

(2) The effect of a commission order on customer rates and charges for service provided in the regulated territory.

(3) The effect of the commission's order on present and future economic development in the regulated territory.

(4) The history of utility service in the regulated territory, including any contracts for utility service entered into by the municipality that adopted the regulatory ordinance and any other municipalities, municipal utilities, or utilities.

(5) Any other factors the commission considers necessary.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-9

Enforcement of regulatory ordinance in absence of wholesale sewage petition

Sec. 9. (a) This section applies if:

(1) a municipality adopts a regulatory ordinance after December 31, 2012; and

(2) a utility owned by the municipality does not, or is not eligible to, file a wholesale sewage petition.

(b) A municipality may not enforce a regulatory ordinance until the commission issues an order under subsection (c). The municipality shall petition the commission for approval of the regulatory ordinance. The petition must include the following:

(1) A description of the service territory established in the regulatory ordinance.

(2) Proposed rates and charges for the services to be provided in the service territory.

(3) A list of any administrative or judicial proceedings involving the regulatory ordinance.

(4) A list of any utilities actually or potentially affected by the regulatory ordinance.

(c) After notice and hearing, the commission shall issue an order

resolving all issues presented in the petition described in subsection (b), including the enforceability of the regulatory ordinance in the manner that the commission determines is in the public interest. In making a determination of the public interest, the commission shall consider the factors set forth in section 8(g) of this chapter. The commission shall issue the order within three hundred (300) days after the petition described in subsection (b) is filed.

(d) If the commission does not approve the petition, the municipality may modify and resubmit the petition in the manner prescribed by the commission. After notice and hearing, the commission shall review the petition as set forth in subsection (c). If the commission does not approve the resubmitted petition, the regulatory ordinance is void.

(e) The municipality may petition the commission to rescind or modify an order issued under subsection (c) not earlier than five (5) years after the date on which the order was issued.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-10

Service disputes between utilities in regulated territories

Sec. 10. (a) This section applies to a dispute, other than a dispute described in section 7, 8, or 9 of this chapter, that:

(1) arises between two (2) or more utilities as to which utility will provide utility service in a regulated territory; and

(2) is not the subject of an action initially filed in a court before January 1, 2014.

A dispute shall be resolved by the commission under this section.

(b) A proceeding under this section may be initiated:

(1) by a utility that is a party to a dispute described in subsection (a); or

(2) by the commission on its own initiative.

(c) Throughout a proceeding under this section, the commission shall, where feasible, promote the resolution of the dispute described in subsection (a) through a mutual agreement between the utilities that apportions the provision of utility service in the regulated territory. A mutual agreement described in this subsection is the preferred way of resolving a dispute described in subsection (a). However, to resolve the dispute, a mutual agreement must be approved by the commission in an order issued under subsection (e), and the commission may approve a mutual agreement only if the commission determines that the mutual agreement is in the public interest.

(d) If the utilities are unable to reach a mutual agreement under subsection (c), the commission shall determine the manner in which utilities shall provide service in the regulated territory. In making the determination, the commission shall consider the criteria set forth in section 8(g) of this chapter.

(e) After notice and hearing, the commission shall issue an order:

(1) approving a mutual agreement under subsection (c); or

(2) making a final determination under subsection (d).

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-11

Expansion of service territory after adoption of regulatory ordinance

Sec. 11. This section applies to a municipality that:

(1) after December 31, 2012, adopts a regulatory ordinance that establishes a service territory that is smaller than the regulated territory; and

(2) either:

(A) amends the ordinance described in subdivision (1); or

(B) adopts a new ordinance;

to establish a service territory that is larger than the service territory described in subdivision (1).

Before an ordinance described in subdivision (2) may take effect, the municipality shall submit the ordinance to the commission for approval under section 10 of this chapter.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-12

Order of commission is final order

Sec. 12. An order issued by the commission under this chapter is a final order for purposes of IC 8-1-3 and is enforceable in court.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-13

Petition not subject to certain requirements

Sec. 13. A petition filed under this chapter is not subject to the following:

(1) IC 8-1.5-3.

(2) IC 36-9-23.

(3) IC 36-9-25.

As added by P.L.213-2014, SEC.7.

(36-9-2-15) See ORD 32-1993 UTILITY SERVICE BOARD

36-9-2-15. Utility Service Board:

(a) The City Utility Board is hereby created and established to operate the City Water Works and the City Waste Treatment Facility.

(b) The City Utility Service Board shall be governed by Indiana Code 8-1.5-3-1 et seq., as amended.

(c) Not more than two-thirds (2/3) of the members shall be of the same political party. Party affiliations shall be determined by the latest primary voting record of the appointee in the most recent City or County primary election preceeding his or her appointment to the City Utility Service Board. If the appointee's primary voting record in that City or County primary election does not indicate party preference, then party affiliation shall be determined by the appointee executing a sworn affidavit as to his or her party preference.

All members shall be residents of the area served by the Board. The Chairman selected by the Board shall not be deemed a department head for the purposes of Indiana Code 36-4-9-2.

(d) All Board members shall be paid expenses incurred in the discharge of their duties.

(e) RULES AND REGULATIONS OF THE BOARD:

Pages 736-747

(3) Emergency Meetings. Emergency meetings of the board may be called at any time by the Chairman, by a majority of the Board, by the Utilities Manager, or by the Superintendents jointly, to deal with actual or potential injury to persons, property, or disruption of the water or sewer works. The location, date, and time of such meetings shall be determined by the person or persons calling the meeting. The same notice given to Board members shall be given to the news media. An agenda shall be provided to the Board Members and the news media when practical.

(4) Executive Sessions. The Board may meet in executive session at the discretion of the Chairman or a majority of the board. Executive Sessions may be held only in the following instances:

(a) where authorized by Federal or State statute;

(b) for discussion of strategy with respect to: collective bargaining, pending or threatened litigation, the implementation of security systems, or the purchase of property, if for competitive or bargaining reasons such discussion is necessary;

(c) interviews with industrial or commercial prospects or their agents;

(d) interviews with prospective employees;

(e) with respect to any individual over whom the governing body has jurisdiction; to receive information concerning the individual's alleged misconduct, or to discuss, prior to any determination, the individual's employment or other status;

At any regular or special meeting, the Board may consider and act upon items of business not previously listed on the agenda for that meeting only upon a motion carried by a two-thirds (2/3) vote of the Board present. If that two-thirds (2/3) vote is not obtained, the item may be placed on the agenda for the next meeting.

(7) Minutes. The proceedings of all regular, special emergency, and executive sessions of the Board shall be recorded in proper minute books in the form required by law. The minutes of each meeting shall be approved at the next meeting of the Board. The Chairman and Secretary shall sign the permanent copy of the minutes signifying to the Board's approval of the minutes. If a dispute arises among the members as to the accuracy of any portion of the minutes, that dispute shall be resolved by majority (4) vote of the whole Board.

These minutes shall contain:

(1) the names of Board members present;

(2) the verbatim recording of all motions which are called to a vote, and;

(3) the results of all votes taken that are less than unanimous by entering a list of the names of those voting by yeas and nays; however, the minutes of any executive session shall only identify the subject considered.

Article II

Officers

(1) Officers. The officers of the Board shall consist of a Chairman and Vice Chairman.

(2) Elections. The members of the Board shall elect from their number the Chairman of the Board at the first regular meeting in January of each year. The Chairman shall be elected by a majority vote of all members. Members may vote for Chairman by absentee ballot if they are ill or out of town at the time of the meeting by delivery of their vote in sealed writing to the Board Secretary prior to the start of the meeting.

(3) Terms. The Chairman elected by the Board shall hold that office for a term of one (1) year or until a successor is duly elected.

(4) Vacancy. If the office of Chairman becomes vacant prior to the expiration of the term, the Board shall elect one (1) of its members to complete that unexpired term of Chairman.

(5) Duties of the Chairman. The Chairman shall preside at meetings of the Board and while so presiding, he or she shall have a vote upon all motions, orders, resolutions, and other matters coming before the Board. The Chairman shall be the Chief Executive Officer of the Board, and shall discharge the ordinary

(b) The Manager shall have line authority regarding all Utilities employees. The Board shall respect this authority at all times.

(c) If the Manager believes that the actions of the Board or of any Board member are interfering with the Manager's detailed supervision of the Utilities, he or she shall so notify the Chairman of the Board. Discussion of any dispute in this regard shall be held only in executive session. The Manager shall be present at any such meeting.

(d) In addition to an annual financial report, the Manager shall prepare and submit to the Board monthly financial statements and perform whatever additional duties the Board or the Chairman may prescribe.

(2) Secretary. The Board may utilize the services of a Utilities employee as a secretary to the Board. The Secretary shall have the following duties:

(a) Record, transcribe and make proper distribution of the minutes of all regular and special meetings.

(b) Maintain appropriate files.

(c) Maintain a correspondence log.

(d) Inform all members of any changes in the location, date, or time of regular or special meetings.

(e) Perform whatever additional duties the Board or the Chairman may prescribe.

Article IV

Amendment

(1) The Board may amend or repeal all or any portion of subsection (e) by a majority vote of all members at any regular meeting of the Board, if notice of intention to amend or repeal that subsection in whole or in part shall have been given at the last preceding regular meeting.

(36-9-2-15) UTILITY SERVICE BOARD

Statutory history:
Gen. Ord. 1-1971, adopted Feb. 17, 1971, 10 OB 155;
Gen. Ord. 4-1980, adopted Mar. 18, 1980, 11 OB 599;
Gen. Ord. 30-1983, adopted Oct. 19, 1983, 12 OB 512.

Parallel citation:
IC 36-9-2-15. Utility service to public.

Cross reference:
IC 8-1-2-101. Municipal regulations; relocation of facilities.

Codifier's Note:

General Ordinance No. 1-1971 provided:

"ESTABLISHMENT OF UTILITY SERVICE BOARD

Whereas, a petition was heretofore presented to the City Clerk, addressed to the Common Council... requesting that the question of the creation of a utility service board be submitted to the electors of the City,
and

Whereas, the voters voting on the proposed question voted in favor of the creation of a utility service board.

Now Therefore, [this Ordinance is adopted]...

Section 6. This Ordinance shall be in full force and effect from and after July 1, 1971, said board shall be in existence from the date on which it is organized at its first meeting to be called by the Mayor of the City of Marion, Indiana.

Section 7. All ordinance or parts of ordinances in any way inconsistent with or repugnant to the provisions of this ordinance are hereby repealed."

GENERAL ORDINANCE NO. 30-1983

An Ordinance of the City of Marion, Indiana Amending the Utility Service Board Ordinance Which is General Ordinance No. 1-1971, as amended of the City of Marion, Indiana

BE IT ORDAINED by the Common Council of the City of Marion, State of Indiana, that General Ordinance No. 1-1971, as amended, which is commonly known as the Utility Service Board Ordinance and which became effective on the 17th day of February, 1971, be and the same hereby is amended as follows, to-wit:

1. To delete the language contained in Section 1 of of the existing Ordinance.

2. Add and substitute the following language for Section 1 of the existing Ordinance:

Section 1. That a Utility Board is created and established to operate the Marion City Water Works and the Marion City Waste Treatment Facility.

3. To delete the language contained in Section 3 of the existing Ordinance.

4. To add and substitute the following language for Section 3 of the existing Ordinance.

Section 3. The Marion Utility Service Board will be governed by Indiana Code 8-1.5-3-1 et. seq., as amended.

5. Section 4 of the existing Ordinance shall be amended by adding the following additional paragraphs at the end of Section 4 of the existing Ordinance.

Not more than two-thirds (2/3) of the members may be of the same political party. Party affiliations shall be determined by the appointees latest primary voting record in the City or County Primary Election preceeding his/her appointment to the Marion Utility Service Board. If the appointees' primary voting record in the City or County Primary Election does not indicate party preference, then party affiliation can be determined by the appointee executing a sworn affidavit as to his/her party preference.

All members shall be residents of the area served by the Board and the Chairman as selected by the Board, shall not be considered the head of a department for the purpose of Indiana Code 36-4-9-2.

This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor, as provided by law.

PASSED AND ADOPTED, by the Common Council of the City of Marion, Indiana, this 18th day of Oct., 1983.

Paul Reed
Presiding Officer

ATTEST:

Deputy Kathleen Ann Kirk
City Clerk

Presented by me to the Mayor of the City of Marion, Indiana, this 19 day of Oct., 1983.

Deputy Kathleen Ann Kirk
City Clerk

Approved by me as Mayor of the City of Marion, Indiana, this 19th day of Oct, 1983.

9:10 AM

Mayor, City of Marion, Indiana

(c) If a city owns a utility and the clerk is directly responsible for the billing and collection of that utility's rates and charges, the clerk shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk's pleasure.

As added by P.L.189-1988, SEC.4.

Chapter 11

City Deputies and Employees

Section

36-4-11-1 Application of chapter
36-4-11-2 Appointments by city executive; exceptions; suspension or removal; appointees serving remainder of unexpired term
36-4-11-3 Departments; appointment of deputies and other employees; dismissal
36-4-11-4 City clerk; appointment of deputies and employees
36-4-11-5 Second class cities; city fiscal officer; appointment of deputy

36-4-11-1 Application of chapter

Sec. 1. This chapter applies to second and third class cities.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.52.

Historical and Statutory Notes

Acts 1980, P.L.212, Sec.3, eff. Sept. 1, 1981.

Cross References

Classification of cities, see IC 36-4-1-1.
Local governmental units, deputies and employees.
Consolidated cities and towns (UNIGOV), see IC 36-3-5-1 et seq.
Counties, see IC 36-2-16-1 et seq.
Townships, see IC 36-6-7-1 et seq.

36-4-11-2 Appointments by city executive; exceptions; suspension or removal; appointees serving remainder of unexpired term

Sec. 2. (a) The city executive shall make the appointments prescribed by law. If an emergency requires additional employees for a city office, board, commission, department, institution, or utility, the executive may also appoint those employees.

(b) This subsection does not apply to appointments made under IC 20. An executive may not make an appointment between midnight December 31 and noon January 1 of the last year of the executive's final term of office.

(c) This subsection does not apply to appointments made under IC 20. The executive may remove from office a board or commission member appointed by a prior executive if the appointment was made on or after the date of the general election and:

(1) the prior executive was a candidate for nomination as a party's candidate for election to the office of executive at the primary election held

during the last year of the prior executive's term of office and the prior executive was not nominated at that election; or

(2) the prior executive was a candidate for another term of office as executive at the general election held during the last year of the prior executive's term of office and the prior executive was not elected to another term of office at that election;

and if the executive notifies the appointee of the removal and sends a written statement of the reasons for the removal to the city legislative body.

(d) The executive may suspend or remove from office any officers, deputies, or other employees of the city appointed by the executive or a prior executive, by notifying them to that effect and sending a written statement of the reasons for the suspension or removal to the city legislative body.

(e) A person appointed by the executive to fill a vacancy caused by a removal under subsection (c) serves the remainder of the unexpired term of the appointee removed from office under subsection (c).

(f) Notwithstanding any other law, if the term of a member of a board who was appointed by the executive expires and the executive does not make an appointment to fill the vacancy, the member may continue to serve on the board for only sixty (60) days after the expiration date of the member's term. *As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.185-1988, SEC.3; P.L.68-1996, SEC.7.*

Historical and Statutory Notes

Formerly:
IC 18-1-6-2.
IC 18-2-1-9.
Acts 1905, c. 129, s. 80.
Acts 1933, c. 233, s. 10.
Acts 1935, c. 307, s. 2.
Acts 1945, c. 32, s. 1.
Acts 1957, c. 141, s. 1.

Cross References

Appointments by city executive, authority, see IC 36-4-5-4.
Department heads, appointment by city executive, see IC 36-4-9-2.
Second class cities, appointment of officers and employees, see IC 36-4-9-6.
Third class cities, appointment of board members, officers, and employees, see IC 36-4-9-8.

Library References

Municipal Corporations ⇐148.
WESTLAW Topic No. 268.
C.J.S. Municipal Corporations § 494.
I.L.E. Municipal Corporations § 101 et seq.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

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RESOLUTION NO. 2-1995

RESOLUTION OF MARION UTILITY SERVICE BOARD AMENDING RULES AND REGULATIONS OF THE BOARD PERTAINING TO REGULAR MEETINGS OF THE BOARD

Whereas, the MARION UTILITY SERVICE BOARD (hereinafter "Board") was created by General Ordinance No. 1-1971 of the Marion Common Council (hereinafter "Council"); and

Whereas, the Council adopted General Ordinance No. 32-1993 amending *Section 36-9-2-15* of the Marion City Code pertaining to the rules and regulations governing the conduct and procedures of the Board; and

Whereas, *Section 36-9-2-15(d)* provides in ARTICLE IV thereof that the Board may amend or repeal any of its rules and regulations by a majority vote of all of the members of the Board at any regular meeting of the Board, if notice of intention to amend or repeal has been given at the last preceding regular meeting and to the Mayor and the Council prior to any final action; and

Whereas, notice of a proposed amendment to ARTICLE I, Section 1 was announced and given to all members of the Board at its regular meeting held January 19, 1995, for final action by the Board at its next regular meeting to be held February 2, 1995; and

Whereas, notice of the proposed amendment has been given to the Mayor and the Council pursuant to ARTICLE IV of Code *Section 36-9-2-15(d)* of the Marion City Code; and

Whereas, the Board believes that said proposed amendment is in the best interests of the utility and its users;

NOW, THEREFORE, BE IT RESOLVED that the MARION UTILITY SERVICE BOARD at an open regular meeting and after due notice hereby amends *Section 36-9-2-15(d)* ARTICLE I, Section 1 in its entirety to read as follows:

(d) RULES AND REGULATIONS OF THE BOARD

ARTICLE I - MEETINGS

Section 1. Regular Meetings

Regular meetings of the Board shall be held two (2) times a month at 1540 North Washington Street commencing at 5:30 p.m., or at such other time and public place in the City of Marion, Indiana, as a majority of the Board may select. The date and time of any such regular meeting shall be approved

by the Board and shall be made public information as required by the Indiana Open Door Law. A majority may cancel the regular meeting with 48-hour notice. The Board has presently established the regular meeting for the 1st and 3rd Thursday of each month, starting at 5:30 p.m., at 1540 North Washington Street, Marion, Indiana. Board members and the news media will receive at least 48 hours advance notice of any change from the regular meeting schedule.

ADOPTED in an open meeting this 2nd day of February, 1995.

MARION UTILITY SERVICE BOARD

By _____
Douglas E. Carl, Its Chairman

ATTEST:

_____
Secretary

Passed Dated 12-2-1993

AN ORDINANCE AMENDING THE MARION CITY CODE
BY AMENDING THE RULES AND REGULATIONS
GOVERNING THE CONDUCT AND PROCEDURES OF
THE MARION UTILITY SERVICE BOARD

WHEREAS, the ordinances, rules and regulations governing the Marion Utility Service Board are set forth in the Marion City Code and four separate ordinances enacted over the period from 1971 through 1987, thereby creating a need to update and consolidate such rules and regulations,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE CIVIL CITY OF MARION, STATE OF INDIANA:

SECTION 1.

The Marion City Code is amended as follows:

Section 36-9-2-15 of the Marion City Code is hereby amended in its entirety to read as follows:

CHAPTER 15

UTILITY SERVICE BOARD

SECTION.
36-9-2-15 Utility Service Board

36-9-2-15. Utility Service Board.

(a) PURPOSE:

The City Utility Board is hereby created and established to operate the City Water Filtration Plant and the City Wastewater Treatment Facility.

(b) MEMBERSHIP:

The City Utility Service Board shall be governed by Indiana Code 8-1.5-3-1, et seq., as amended.

(1) Said Board shall be composed of seven (7) members, and the Mayor shall appoint the majority members as follows:.

1 person for a term of four years, 1 person for a term of three years, 1 person for a term of two years and 1 person for a term of one year; and the minority of the members shall be appointed by the Common Council as follows: 1 person for a term of three years, 1 person for a term of two years, and 1 person for a term of one year.

(2) After the original appointments, all regular appointments shall be made for a term of four years; vacancies which occur are filled for the unexpired term only.

Not more than two-thirds (2/3) of the members shall be of the same political party. Party affiliations shall be determined by the latest primary voting record of the appointee in the most recent City or County primary election preceding his or her appointment to the City Utility Service Board. If the appointee did not vote in the most recent primary election held by the party with which the appointee claims affiliation he must be certified as a member of that party by the party's County Chairperson for the County in which the appointee resides.

All members shall be residents of the area served by the Board. The Chairperson selected by the Board shall not be deemed a department head for the purposes of Indiana Code 36-4-9-2.

(c) FINANCES:

(1) Board Members Compensation

Members of the Marion Utility Service Board shall be reimbursed by the Utility for out-of-pocket expenses incurred in the performance of their duties as members of the Board.

CHANGED BY: D. 39-1995 TO $600.00/2000.00

In addition, the Chairperson of the Board shall receive a salary in the amount of $1,200.00 annually, and regular Board members shall receive a salary in the amount of $1,000.00, effective January 1, 1994.

If a Board member is unable to attend regular Board meetings for a period of two months consecutively, no salary will be received for the period of absence.

(2) Promotional Account

(a) An account is hereby established being the Marion

Utility Service Board Promotional and Miscellaneous Account. The Marion Utility Service Board is hereby authorized to budget and appropriate funds from the revenues of the Water and Sewer Utility to pay the expenses incurred in promoting the betterment of the City of Marion, Indiana, through the accounts hereby created.

(b) Expenditures from these accounts may include, but are not necessarily limited to, the following:

1. Membership dues and local, regional, state and national associates of a civic, educational or governmental nature which have as their purpose the betterment and improvement of municipal utility operations.

2. Direct expenses for travel, meals, and lodging in conjunction with municipal business or meetings or organizations to which the municipal utility belongs.

3. Expenses incurred in the promotion of Economic or Industrial development for the municipality, including meeting room rental, decorations, lodging, meals and travel.

4. Commemorative plaques, certificates, or objects such as commemorative keys.

5. Other purposes which are deemed by the Marion Utility Service Board to directly relate to the promotion or betterment of the City of Marion, Indiana.

(c) Said promotional account shall be budgeted each year by the Marion Utility Service Board. No expense shall be allowed from the account without prior authorization and approval of the Marion Utility Service Board. Claims for expense under this section will be allowed as prescribed by law.

(d) RULES AND REGULATIONS OF THE BOARD

ARTICLE I - MEETINGS

Section 1. Regular Meetings

Regular meetings of the Board shall be held two (2) times a month at 1540 North Washington Street or at such other public place in the City of Marion, Indiana, as a majority of the Board may select.

The date and time of any such regular meeting shall be approved by the Board and shall be made public information as required by the Indiana Open Door Law. A majority may cancel the regular meeting with 48-hour notice. The Board has presently established the regular meeting for the 1st and 3rd Thursday of each month, starting at 7:00 p.m., at 1540 North Washington Street. Board members and the news media will receive at least 48 hours advance notice of any change from the regular meeting schedule.

Section 2. Special Meetings

Special meetings of the Board may be called at any time by the Chairperson, by the majority of the Board, by the Director, or by the Superintendents jointly. The location, date and time of such special meetings shall be determined by the person or persons calling the meeting. Notice as required by the Open Door Law will be given.

Section 3. Emergency Meetings

Emergency meetings of the Board may be called at any time by the Chairperson, by majority of the Board, by the Director, or by the superintendents jointly to deal with actual or potential injury to person, property, or disruption of the water or sewer works. The location, date and time of such special meetings shall be determined by the person or persons calling the meeting. The same notice given to Board members must be given to the news media. An agenda will be provided to the Board members and the news media when practical.

Section 4. Executive Sessions

The Board may meet in Executive Session at the discretion of the Chairperson or a majority of the Board. It is the intent of this Board to comply with the Indiana Open Door Law.

Section 5. Quorum

A majority(4) of the number of Board members as fixed by City Ordinance shall constitute a quorum for the transaction of business at any meeting. The act of majority (3) of the quorum shall be the act of the whole Board, except where otherwise provided in these Rules.

Section 6. Agenda

An agenda listing items of old and new business to be considered at

regular meetings shall be prepared and made available to the Board members and the public at least 48 hours prior to the date of such meeting. The same shall be done for special and emergency meetings, when practical. Items may be placed on the agenda for a particular meeting by any Board member, Director, Superintendent, Office Manager, Attorney to the Board, or a private citizen by contacting the Board secretary at least seven (7) working days prior to the meeting. At any regular or special meeting, the Board may consider and act upon items of business not previously listed on the agenda for that meeting only upon a motion carried by a two-thirds (2/3) vote of the Board present. If such two-thirds (2/3) vote is not obtained, the item may be placed on the agenda for the next meeting.

Section 7. Minutes

The proceedings of all regular, special emergency and executive sessions of the Board shall be recorded in proper minute books in the form required by law. The minutes of each meeting shall be approved at the next meeting of the board. The secretary will sign the permanent copy of the minutes signifying to the Board approval of the minutes. In the event a dispute arises among the members as to the accuracy of any portion of the minutes, such dispute shall be resolved by a majority (4) of votes of the whole Board. These minutes shall contain: (1) the names of Board members present, (2) the verbatim recording of all motions which are called to a vote and (3) the results of all votes taken that are less than unanimous by entering a list of the names of those voting by yeas and nays; PROVIDED, however, the minutes of the Executive Session need only identify the subject considered.

Section 8. Order of Business

The order of business shall be as follows: (1) Roll call; (2) Reading of the Minutes of the previous meeting and their approval; (3) Reports of Boards and standing committees; (4) Reports of Special (select) Committees; (5) Special Orders; (6) Unfinished Business and General Orders; (7) New Business; (8) Adjourn.

Section 9. Parliamentary Procedure

Robert's Rules of Order in its latest edition shall govern all deliberations of the Board when not in conflict with these rules.

Section 10. Compliance With Indiana Open Door Law

It is the Board's intent to meet the requirements of the Indiana

Open Door Law. The Open Door Law prevails in event of a conflict between these rules and said law.

Section 11. Affirmative Action Plan

The Marion Utility Service Board affirms its commitment to equal employment opportunity for all persons, regardless of race, color, ancestry, religion, sex, national origin, marital status, physical handicap, medical condition, age, status as a disabled veteran or veteran of wars, including Vietnam, per the Utility's Affirmative Action Plan. A copy of the Affirmative Action Plan shall be kept on file at the Director's office for review.

ARTICLE II - OFFICERS

Section 1. Officers

The officers of the Board shall consist of a Chairperson and Vice Chairperson.

Section 2. Elections

The members of the Board shall elect from their number the Chairperson of the Board at the first regular meeting in January. The Chairperson shall be elected by a majority (4) of votes of all members. Members may vote for Chairperson by absentee ballot if they are ill or out of town at the time of the meeting by delivery of their vote in sealed writing to the Board secretary prior to the start of the meeting.

Section 3. Terms

The Chairperson elected by the Board shall hold that office for a term of one year or until a successor is duly elected.

Section 4. Vacancy

In the event the office of Chairperson becomes vacant prior to the expiration of the term, the Vice Chairperson shall complete that unexpired term of Chairperson.

Section 5. Duties of The Chairperson

The Chairperson shall preside at meetings of the Board and while so presiding shall have a vote upon all motions, orders, resolutions and other matters coming before the Board. The Chairperson shall be the chief executive officer of the Board. The Chairperson shall

discharge the ordinary duties of a presiding office in the ordinary course of business and perform such other duties as may be prescribed by these rules and regulations or by the Marion Utility Service Board. The Chairperson shall appoint the Vice Chairperson with approval of a majority (4) votes of the whole Board. In the event a member votes by absentee ballot, he automatically concurs with the Chairperson's choice for Vice Chairperson. The Chairperson shall appoint all committees. A standing committee will be appointed to work with other agencies concerning matters regarding utilities.

Section 6. Duties of The Vice Chairperson

The Vice Chairperson shall perform all usual duties of the office in the absence of the Chairperson.

ARTICLE III - ADMINISTRATION

Section 1. Director of Utilities

The Director of this Utility is responsible to the Board for the business and technical operations of the utilities. The following rules shall apply to the working relationship between the Board and the Director.

(a) The Director shall when possible attend all regular and special meetings of the Board, and shall be eligible to attend the meetings of the Board in Executive Session, at the discretion of the Board.

(b) The Director shall have line authority regarding all utilities employees. The Board shall respect this authority at all times.

(c) In the event the Director believes that the actions of the Board or of any Board member are interfering with the Director's detailed supervision of the utilities, he shall so notify the chairperson of the Board. Discussion of any dispute in this regard shall be held only in Executive Session, and the Director shall be present at any such meeting.

(d) In addition to an annual financial report, the Director shall prepare and submit to the Board monthly financial statements and perform whatever additional duties the Board, through the chairperson, may prescribe.

Section 2. Secretary

The Board may utilize the services of a Utility employee as a secretary to the Board. The rate of compensation will be established by the board. The secretary shall have the following duties:

(a) Record, transcribe and make proper distribution of the minutes of all regular and special meetings.

(b) Maintain appropriate files.

(c) Maintain a correspondence log.

(d) Inform all members of any changes in the location, date or time of regular or special meetings.

(e) Perform whatever additional duties the Board, through the Chairperson, may prescribe.

Section 3. Board Members' Duties

In order to contribute to the overall effective functioning of the Board and the Utilities, Board members are expected to abide by the following rules:

(a) To attend all meetings of the Board unless legitimate reason exists for not attending.

(b) To participate actively in Board activities.

(c) To keep informed regarding Board activities.

(d) All requests by the Board or any member of the Board for information and reports to be supplied by Utilities employees shall be made through the Director or, in his absence, the Director's nominee.

(e) To refrain from giving directions to do work to all Utility personnel unless the request is made at a meeting of the Board and duly approved by the Board.

Section 4. Use Of An Attorney

To properly represent the Board and the Utilities, and subject to I.C. 36-4-9-12 setting out the powers and duties of the City Attorney, the Board's attorney shall:

(a) Attend Board meetings unless legitimate reason exists for not attending and to give legal advice as requested,

which may occur at times other than Board meetings.

(b) Draft the legal documents which are necessary for the conduct of the Board and Utility business.

(c) Represent the Board and Utilities in litigation matters.

(d) Be informed on law affecting the Board and Utility and to give advice regarding pertinent new legal developments.

Section 5. Nonprofit Organizations

Laboratory services may be made available free of charge to any public or private organization which has been designated as exempt from taxation under Section 501(c)(3) of the Internal Revenue Code at the discretion of the Board.

ARTICLE IV - AMENDMENTS

The Board may amend or repeal all or any portion of subsection (d) by a majority vote of all members at any regular meeting of the Board, if notice of intention to amend or repeal that subsection in whole or in part shall have been given at the last preceding regular meeting. to Mayor and Common Council of the City prior to any final action.

REPLACE/AMENDS

1. Rules and Regulations Governing the Marion Utility Service Board

2. Marion Ordinance 1-1971

3. Marion Ordinance 30-1983

4. Marion Ordinance 5-1985

5. Marion Ordinance 11-1987

6. Marion City Code 36-9-2-15

SECTION 2.

This Ordinance shall become effective on the date of passage.

PASSED, in Common Council, the 21st day of December, 1993.

Bryce Cowan
Presiding Officer

ATTEST:
Kathleen Kiley
City Clerk

Presented by me to the Mayor of the City of Marion, Indiana, this 22 day of Dec, 1993.

Kathleen Kiley
City Clerk

THIS ORDINANCE APPROVED by me the 22 day of Dec., 1993.

Mayor, City of Marion, Indiana

GENERAL ORDINANCE NO. 39 - 1995

AN ORDINANCE AMENDING SECTION 36-9-2-15(c)(1) OF THE MARION CITY CODE PERTAINING TO COMPENSATION OF MEMBERS OF THE MARION UTILITY SERVICE BOARD

WHEREAS, the Marion Utility Service Board has recommended to the Common Council of the City of Marion an amendment to the Marion City Code pertaining to the compensation of its members; and

WHEREAS, the Board and the Council believe that said proposed amendment is in the best interests of the Utility and its users, and should be adopted;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

Section 36-9-2-15(c)(1) of the Marion City Code is hereby amended by deleting the matter indicated by ~~strikeout~~ and adding the matter indicated by underline as follows:

(c) FINANCES:

(1) Board Members Compensation

Members of the Marion Utility Service Board shall be reimbursed by the Utility for out-of-pocket expenses incurred in the performance of their duties as members of the Board.

In addition, the Chairperson of the Board shall receive a salary in the amount of ~~$1,200.00~~ $2,500.00 annually, and regular Board members shall receive a salary in the amount of ~~$1,000.00~~ $2,000.00, effective January 1, ~~1994~~ 1996.

If a Board member is unable to attend regular Board meetings for a period of two months consecutively, no salary will be received for the period of absence.

SECTION II

This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 20th day of December, 1995.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 21st day of December, 1995.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 21st day of December, 1995.

Mayor, City of Marion, Indiana

GENERAL ORDINANCE NO. 11 - 1987

An Ordinance of the Common Council of the City of Marion, Indiana, Amending the Utility Service Board Ordinances of the City of Marion, Indiana

BE IT ORDAINED by the Common Council of the City of Marion, State of Indiana, that General Ordinance No. 1-1971, as amended by General Ordinance No. 30, 1983, is hereby further amended as follows, to-wit:

1. Section 5 of General Ordinance No. 1-1971 is hereby amended to read as follows:

> "Members of the Marion Utility Service Board shall be reimbursed by the Marion City Utilities for out-of-pocket expenses incurred in the performance of their duties as utility board members. In addition, the chairperson of the Marion Utility Service Board shall receive a salary in the amount of $750 a year and, the other members of the Marion Utility Service Board shall receive a salary in the amount of $600 a year."

2. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor, as provided by law.

PASSED AND ADOPTED, by the Common Council of the City of Marion, Indiana, this 21st day of July 1987.

Steven T. Wolfe
Presiding Officer

ATTEST:

Mary Jane Holloway
City Clerk

Presented by me to the Mayor of the City of Marion, Indiana, this 22nd day of July 1987.

Mary Jane Holloway
City Clerk

Approved by me as Mayor of the City of Marion, Indiana, this 22nd day of July, 1987.

Lewis Moore
Mayor, City of Marion, Indiana.

Passed by Council March 5, 1985

GENERAL ORDINANCE NO. 5 -1985

AN ORDINANCE ESTABLISHING AN ACCOUNT FOR THE PROMOTION OF CITY OF MARION, INDIANA

WHEREAS, the Indiana General Assembly has adopted a policy to grant local units of government all the powers that they need for the effective operation of government as to local affairs through Indiana Code 36-1-3-2; and

WHEREAS, participation in membership organizations and expenditures of a promotional nature is necessary for the efficient operation and betterment of municipal utility operations.

THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MARION, INDIANA, that:

SECTION 1. An account is hereby established, being the Marion Utility Service Board Promotional and Miscellaneous Account. The Common Council of the City of Marion, Indiana is hereby authorized to budget and appropriate funds from the revenues of the Water and Sewer Utility to pay the expenses incurred in promoting the betterment of the City of Marion, Indiana, through the accounts hereby created.

SECTION 2. Expenditures from these accounts may include, but are not necessarily limited to, the following:

(A) Membership dues and local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of municipal utility operations.

(B) Direct expenses for travel, meals, and lodging in conjunction with municipal business or meetings or organizations to which the municipal utility belongs.

(C) Expenses incurred in the promotion of Economic or Industrial Development for the municipality, including meeting room rental, decorations, lodging, meals and travel.

(D) Commemorative Plaques, Certificates, or objects such as Commemorative Keys.

(E) Other purposes which are deemed by the Marion Utility Service Board, to directly relate to promotional or betterment of the City of Marion, Indiana.

SECTION 3. Said promotional account shall be budgeted each year by the Marion Utility Service Board and approved by the Common Council. No expense shall be allowed from the account without prior authorization and approval of the Marion Utility Service Board. Claims for expenses under this section will be allowed as prescribed by law.

Passed by the Common Council of the City of Marion, Indiana, on this 5th day of March, 1985.

Presiding Officer
City Council of Marion, Indiana

Presented by me to the Mayor for his approval, this 6th day of March, 1985.

MARY JANE HOLLOWAY, As City Clerk

The above Ordinance is approved by me this 9th day of March, 1985.

GENE O. MOORE, as Mayor

ATTEST:

MARY JANE HOLLOWAY, City Clerk

GENERAL ORDINANCE NO. 1-1971
AS AMENDED

ESTABLISHMENT OF UTILITY SERVICE BOARD

WHEREAS, a petition was heretofore presented to the City Clerk, addressed to the Common Council of the City of Marion, Indiana, requesting that the question of the creation of a utility service board be submitted to the electors of the City, and

WHEREAS, the voters voting on the proposed question voted in favor of the creation of a utility service board.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

Section 1. That a utility board is created and established to operate the Marion City Water Works and the Marion City Sanitation Department.

Section 2. The name of said Utility Board shall be the "Marion Utility Service Board".

Section 3. The Marion Utility Service Board will be governed by the Acts of 1913, Ch. 76, Section 109 as amended. (Burns Indiana Statutes Sec. 54-613)

Section 4. Said Board shall be composed of Seven (7) members and the Mayor shall appoint the majority members as follows, 1 person for a term of four years, 1 person for a term of three years, 1 person for a term of two years and 1 person for a term of one year; and the minority of the members shall be appointed by the Common Council as follows: 1 person for a term of three years, 1 person for a term of two years and 1 person for a term of one year.

After the original appointments, all regular appointments shall be made for a term of four years; vacancies which occur are filled for the unexpired term only.

Section 5. Board members shall be paid expenses incurred in the discharge of their duties.

Section 6. This Ordinance shall be in full force and effect from and after July 1, 1971, said Board shall be in existence from the date on which it is organized at its first meeting to be called by the Mayor of the City of Marion, Indiana.

Section 7. All ordinances or parts of ordinances in any way inconsistent with or repugnant to the provisions of this ordinance are hereby repealed.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 16th day of February, 1971.

Ronald P. Leak
Presiding Officer

ATTEST:

M. J. Kelley
Deputy City Clerk

PRESENTED by me to the Mayor this 17th day of February, 1971.

M. J. Kelley
Deputy City Clerk

APPROVED by me this 17th day of February, 1971.

Leon Moon
Mayor, City of Marion, Indiana

CLERK'S CERTIFICATE

STATE OF INDIANA, GRANT COUNTY, ss:

I, Richard E. Treber, Clerk of the Grant Circuit Court, within and for the County of Grant, and the State of Indiana, the same being a Court of Record having a seal, do hereby certify that on November 3, 1970 the following question was presented to the voters of the City of Marion by referendum vote.

"Shall the Common Council of the City of Marion, Indiana adopt and enact an ordiance providing for the appointment of a utility service board to operate the Marion City Water Works and the Marion City Sanitation Department?"

YES, Total votes received , Four Thousand Six Hundred Eight Votes (4,608)

NO, Total votes received , Two Thousand Two Hundred Twenty Votes (2,220)

as the same appears upon the records of said Court in my custody as such Clerk and on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Court, at the City of Marion, Indiana, this 4th day of December A. D. 1970.

Signed

Clerk Grant Circuit Court of Indiana.
Secretary, Grant County Election Board

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TITLE V: PUBLIC WORKS

CHAPTER 51: WATERWORKS REGULATIONS

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Section

General Provisions
51.01 Definitions
51.02 Rules and regulations on file
51.03 Contracts
51.04 Deposit
51.05 Feasibility of extension
Service Rules and Regulations
51.20 Turning on water service
51.21 Payment of bills
51.22 Discontinuance of service
51.23 New service applications
51.24 Service connections
51.25 Maintenance of service pipes and meter boxes
51.26 Inside piping and service lines
51.27 Cross connections
51.28 Use of booster pump
51.29 Access to premises
51.30 Metering
51.31 Basis for billing
51.32 Denial or discontinuance of service for cause
51.33 Notification of load increase
51.34 Resale of water
51.35 Private fire protection service
51.36 Interruption of service
51.37 Water main extension policy
51.38 Connection fee
51.39 Abandoned service lines
51.40 Delinquent sewer bills
51.41 Temporary water service
51.42 Other basis for extensions
51.43 Public fire protection: recovery of water costs

Statutory reference:

Waterworks, see I.C. 36-9-2-14

GENERAL PROVISIONS

§ 51.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The City Utility Service Board or any duly authorized officials acting in its behalf.

CUSTOMER. Any person, municipality or other governmental agency, which has agreed orally, or otherwise, to pay for water service received from the City Water Utility.

PREMISES. A dwelling, building, structure or parcel of real estate, which is normally supplied through a separate service pipe and meter installation.

PRIVATE FIRE SERVICE. A privately owned arrangement of pipes, fixtures and devices designed for stand-by service and from which water is taken only for extinguishments of fires.

PRIVATE MAIN. A privately owned pipe connected to the Utility's distribution system and used to deliver water or for general service purposes. Service rendered through a private main shall be billed directly by the Utility in accordance with established rates unless otherwise provided by written contract.

SERVICE PIPE. A supply pipe including fittings leading from the tap in the distribution main to or into the premises supplied or to be supplied.

TAP or ***CORPORATION STOP.*** A fitting owned by the Utility and inserted into the distribution main to which the service pipe is attached.

UTILITY. The City Water Utility, owned by the city, operated and managed by the City Utility Service Board and engaged in furnishing public water in the city and its environs.
(1985 Code, § 36-9-2-14(b)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.02 RULES AND REGULATIONS ON FILE.

The rules and regulations under which water service shall be rendered are incorporated by reference into this chapter. Two copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for public inspection in accordance with I.C. 36-1-5. Another copy shall be filed for the convenience of the public in the general office of the Utility.
(1985 Code, § 36-9-2-14(c)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.03 CONTRACTS.

(A) *Written application or contract required.* A written service application or a properly executed contract will be required from a prospective customer (including a contractor or a builder) before the Utility shall supply service; however, the Utility shall have the right to reject an application for any valid reason. Where unusual construction or equipment expenses will be involved in furnishing the service, the Utility may require the contract to be for an appropriate period of time specified by the Utility when the contract is executed.
(1985 Code, § 36-9-2-14(d))

(B) *Modification of contract.* No promises, agreements or representations by any agent of the Utility shall be binding upon the Utility unless they have been incorporated in a written contract signed and approved by an agent of the Utility authorized to sign that contract on behalf of the Utility.
(1985 Code, § 36-9-2-14(e))

(C) *Assignment of contract.* The benefits and obligations under any contract for the supply of water by the Utility shall begin when the Utility commences to supply water service thereunder and shall inure to and be binding upon the successors, assigns, survivors, executor or administrator, as the case may be, of the original parties thereof; provided, that no assignment thereof shall be made by the customer or by any successor, assign, survivor, executor or administrator unless the Utility's written consent to any such assignment is first obtained.
(1985 Code, § 36-9-2-14(f)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.04 DEPOSIT.

The Utility may require from each applicant for water service a cash deposit equal to the applicant's estimated billing for a period of 90 days or as established by city ordinance against the non-payment of bills for service. However, if the applicant is an owner of real property whose credit is approved by the Utility, the Utility may waive that deposit. If the customer's bill remains unpaid for a period of five days after the date of the final bill or the date of the discontinuance of service, the amount of that bill shall be deducted from the deposit and the balance, if any, will be remitted to the depositor.
(1985 Code, § 36-9-2-14(g)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.05 FEASIBILITY OF EXTENSION.

The Utility shall not be required to make extensions under this chapter unless the customers initially to be served by that extension shall contract to use the service for a period of three years.
(1985 Code, § 36-9-2-14(aa)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

SERVICE RULES AND REGULATIONS

§ 51.20 TURNING ON WATER SERVICE.

(A) Until a contract for water service has been executed and a meter has been installed, water shall not be turned on at any premises by any person except a Water Utility representative. Water service shall not be turned on unless there is at least one adult person present to see that all water outlets on the premises are closed in order to prevent water damage.

(B) No person except an authorized representative of the Utility, a Fire Department or the Street Department shall open, operate or remove the nozzle cap from any fire hydrant to which water is supplied by the Utility.

(C) When water is required to test plumbing before a water contract has been executed and a meter installed, a Water Utility employee shall be called to make the turn-on and turn-off. Any person except a Water Utility employee who makes such turn-on shall be deemed to have committed an ordinance violation.
(1985 Code, § 36-9-2-14(h)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.21 PAYMENT OF BILLS.

(A) All residential, industrial, and commercial bills shall be rendered monthly. If a bill is not paid on or before the due date, approximately 15 days after the bill is mailed to the customer, indicated on the bill, the customer shall be considered delinquent. Any time thereafter, prior to the payment of the past due bill, the Utility may, after serving notice, discontinue service.

(B) All water charges are incurred by the customer rather than the property. If a customer moves from premises where he or she has been supplied with water service, the customer shall be held responsible for the payment of all bills rendered for the service supplied to those premises unless and until he or she gives proper notice at the office of the Utility that service is to be discontinued at those premises.
(1985 Code, § 36-9-2-14(i)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.22 DISCONTINUANCE OF SERVICE.

(A) Whenever a customer desires to have a service discontinued, he or she shall notify the Utility of that desire and of the date on which service is to be discontinued, sufficiently in advance of that date to provide a reasonable time for the Utility to obtain the final meter reading.

(B) The Utility shall not abate charges in whole or in part due to the extended service of the customer or for any other cause unless the Utility has been notified to turn off the water.

(C) The Utility shall temporarily discontinue service at the request of a customer without charge during regular working hours. After regular working hours a service charge will be applied.

(1985 Code, § 36-9-2-14(j)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.23 NEW SERVICE APPLICATIONS.

All customers who request water service which will require a new water main tap and service line shall be required to make a written application for service to the Utility Engineering Department. The application shall indicate the location of the premises to be served, size of service line and estimated water requirements. The Utility shall then advise the applicant of the form and character of the water supply available. Applications shall be valid for one year. Any applicant may request an extension of time.

(1985 Code, § 36-9-2-14(k)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.24 SERVICE CONNECTIONS.

(A) All service pipes shall be cast iron, ductile iron or type "K" copper from the water main to the meter setting or curb stop. To provide a stable meter setting for outside residential meters, the outlet from the meter box shall be a minimum of three-quarter inch ID type "K" copper for horizontal distance of three feet. No service pipe shall be less than three-quarters of an inch ID.

(B) The Utility reserves the right to determine the placement of each service connection so that the curb stop or meter box will, as a general rule, be located between the present or proposed sidewalk and curb, or at any other location which, in the judgment of the Utility, shall provide a safer, more convenient or more satisfactory location for the curb stop or meter box.

(C) The customer at his or her own expense shall be responsible for construction of the service tap in the water main, the meter box, lid and yoke and the service line from the main to the premises served.

(D) At the customer's expense, the service connection in the water main and the service line from the water main to the property line shall be installed by a licensed bonded plumber, approved by the Utility Manager, in accordance with specifications of the Utility.

(E) The customer, at his or her own expense, shall install the meter box, lid and yoke at the property line all in accordance with specifications furnished by the Utility. The customer shall also at his or her own expense install the service line from the property line to the premises served. Type "K" copper is recommended for that use.

(F) All tap connections two inches ID and greater shall have plans and specifications submitted along with the application for approval by the Engineering Department.

(G) Service pipes, curb stop, service boxes, meter pits, stop and waste valves and other fixtures used in the installation of, repairs to or additions to service pipes shall be of a type and quality approved by the Utility. The material and supplies of any manufacturer, which are in accordance with the Utility's standards specifications, may be approved.

(H) As a general rule, water service shall not be furnished through a single service pipe to more than one property. Under unusual or exceptional conditions, the Utility may waive this rule if the circumstances require.

(I) If service has been installed prior to March 18, 1980, and is not in accordance with the provisions of this chapter, and if water is being taken through a single curb stop to supply two or

more premises, each customer benefitting from that arrangement shall be responsible for the payment of his or her own water bills and other legitimate charges.

(J) Any violation of this section with respect to either or any of those premises shall be deemed an ordinance violation as to all. The Utility may enforce compliance with this chapter by shutting off the supply of water to all; however, that action shall not be taken until the customer not in violation of this chapter has been given written notice and a reasonable opportunity to attach his or her service pipe, at his or her own expense to a separately controlled curb stop.

(K) A new service pipe between the distribution main and a building shall be run in a direct line whenever it is practicable and possible without bends and at a depth of not less than four and one-half feet.

(L) No pipe having joints shall be driven. Service pipes shall not be laid in the same trench with sewers or any other conduit unless written approval has been given by the Utilities Engineering Department.

(M) New service lines shall be connected directly to a water distribution main, which is immediately adjacent to the property requesting service. If an adequate distribution main is not available immediately adjacent to the property requesting service the property owner shall petition for a water main extension in accordance with § 51.36.

(1985 Code, § 36-9-2-14(l)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.25 MAINTENANCE OF SERVICE PIPES AND METER BOXES.

(A) The service pipe and its fixtures from the water main to and including the curb stop shall be maintained in good repair at the expense of the Utility, including replacement if necessary because of damage, corrosion, tuberculation, or other deterioration. If replacement is necessary due to increased demand by the customer, that replacement shall be at the customer's expense.

(B) The service pipe and its fixtures from the curb stop to the building served, the meter excepted, shall be maintained at the expense of the customer or owner of the property. Any leaks or other defects in the pipe or fixture shall be promptly repaired by the customer or owner. A service line or private main extended to property not adjacent to a utility water main, whether extended through public or private property, shall be maintained by the customer or owner, unless that line or main has been accepted in writing for maintenance by the Utility. If needed repairs are not made to that service line or private main within seven days of written notification by the Utility, the customer or property owner may be charged $5 per day for each day following that seven day period of grace that the water leak or other defect is allowed to continue.

(C) All meter boxes and lids shall be maintained in good repair by the owner at his or her expense. In the event that the shut-off is located inside the meter pit, the Utility shall maintain the service pipe up to the shut-off valve on the inlet side of the yoke and shall also furnish and maintain the meter. The owner shall maintain the meter yoke and service pipe leading from the outlet side of the yoke and shall be responsible for all changes in grade or location of the meter box.

(1985 Code, § 36-9-2-14(m)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.26 INSIDE PIPING AND SERVICE LINES.

(A) Each applicant for service shall, at his or her own expense, equip his or her main supply line with a suitable shut-off valve or valves just inside the foundation wall and shall provide all

piping and attachments, all of which shall be assembled, installed and maintained by him or her, subject to the approval of any authorized inspectors and in accordance this chapter.

(B) Each three-quarter inch service line shall have compression type stop and waste valve on the inlet side of the meter. Each one inch or larger service line shall have a gate type shut-off valve on both the inlet and outlet side of the meter.

(1985 Code, § 36-9-2-14(n)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.27 CROSS CONNECTIONS.

No customer shall allow or cause the construction or maintenance of a cross connection. A cross connection is any physical arrangement, including non-working cross connection control devices, whereby a public water supply is directly connected, either continuously or intermittently, with any contaminated or otherwise un-potable liquid or material that may be imparted to the public water supply. The policy of Marion Utility Service Board (MUSB) further addresses cross connection and backflow hazards, application and installation requirements, testing, inspection, and compliance issues in keeping with the Indiana Administrative Code, as further referenced therein. The Cross Connection Control Policy of MUSB is hereby incorporated by reference into this section. MUSB does not assume responsibility for damage, sickness, or death arising from the existence of a cross connection or from the use or failure of a backflow prevention device, whether approved or not approved.

(1985 Code, § 36-9-2-14(o)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.28 USE OF BOOSTER PUMP.

(A) No booster pump shall be installed without the written approval of the Utility.

(B) In all booster pump installations, the suction of the pump shall be connected to an atmospheric tank with city water flow entering the tank being controlled by an automatic float valve and freely discharging into the tank a minimum of six inches above the positive overflow level of the tank.

(C) As an alternative, a vacuum breaker valve with a cushioning valve shall be installed on the suction side of the pump.

(D) In all cases, a device shall be installed to control the operation of the booster pump when pressure to the suction side of the pump drops as per Indiana Administrative Code, further referenced by MUSB Cross Connection Control Policy.

(1985 Code, § 36-9-2-14(p)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.29 ACCESS TO PREMISES.

With consent of the owners or as authorized by law, properly authorized representatives of the Utility shall have the right to enter upon the premises of the customer at all reasonable times for the purpose of inspection cross-connection protective devices, atmospheric tank installations, booster pump vacuum breaker valves, and general plumbing, as well as for the purpose of reading, inspection, repairing or replacing meters used in connection with the service and removing those meters at the termination of the contract or discontinuance of the service.

(1985 Code, § 36-9-2-14(q)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.30 METERING.

(A) *General.*

(1) Unless otherwise specified in the contract between the Utility and the customer or by the tariff on file, the water supplied shall be measured by a meter or meters of standard manufacture, furnished and installed by the Utility in accordance with current standards. The customer shall provide for this purpose, free from expense to the Utility, a suitable place near the service entrance either in the basement in an approved meter box or in a location, which is approved by the Utility before installation.

(2) The Utility shall designate the size of the meter to be used for serving any customer. Each building to be served directly from the main must be supplied by at least a three-quarter inch ID service. If the service is larger than this, the Utility reserves the right to designate the number of meters that can be supplied by that service.

(3) All meters or other appliances and equipment which are furnished by and at the expense of the Utility and which may at any time be on the customer's premises shall, unless otherwise expressly provided by this chapter, be and remain the property of the Utility. The customer shall protect that property from freezing and from any loss or damage. No person except a representative of the Utility shall remove that property or tamper with it.

(4) Ordinary repairs shall be made by the Utility without expense to the customer. Repairs of damage caused by carelessness or neglect by the customer shall also be made by the Utility but the cost of those repairs shall be charged to the customer.

(5) A meter shall be tested for accuracy if the customer requests it. If the test establishes the accuracy of the meter to be within 98% and 102% the Utility shall charge the customer $5 for making the testing. The customer may have a representative present when the meter is tested. (1985 Code, § 36-9-2-14(r))

(B) *Inability to read meter.* If the Utility is unable to gain access to an inside meter setting in order to obtain a reading for one full year, the Utility shall send the customer a letter requesting arrangements for access within regular working hours or service will be discontinued. (1985 Code, § 36-9-2-14(dd)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.31 BASIS FOR BILLING.

(A) All charges for water usage, other than for un-metered fire service or other special purposes, shall be calculated upon the registration of the meter or meters installed.

(B) The Utility shall make every effort to read industrial, residential and commercial meters on a regular basis. Those readings shall be prima facie evidence of the amount of water used. If a meter fails to measure accurately or is not read for any reason, the customer shall be billed an estimated charge based on the average of the previous billings. The first billing made after the meter is read shall be adjusted according to the meter reading.

(C) If water is taken through more than one meter, and if that arrangement is for the convenience of the customer, then each meter shall be read and billed separately. If water is taken through more than one meter for the convenience of the Utility, then the meter readings shall be aggregated and billed as one reading.

(D) All water passing through meters shall be charged for, whether used, wasted or lost through leakage. However, the MUSB may, at its discretion, adjust individual customer water charges for hidden leaks. A hidden leak is defined as: any leak which in ordinary usage cannot be detected by loss of pressure, sound, or sight of running water. (1985 Code, § 36-9-2-14(s)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.32 DENIAL OR DISCONTINUANCE OF SERVICE FOR CAUSE.

(A) *Denial of service.* The Utility reserves the right to refuse an application for service if the applicant is indebted to the Utility for prior service rendered at any location. The Utility shall make known to the applicant the reason for that refusal. The Utility shall also refuse to turn water service on to a property having delinquent sewer service charges outstanding.

(B) *Discontinuance without notice.*

(1) The Utility reserves the right to discontinue service without notice to any customer:

(a) When an emergency exists.

(b) For unauthorized use of water.

(c) For an unapproved cross connection of a customer's water pipes to any other source of water supply or for permitting any condition to exist about his or her premises that causes or might cause pollution of the public water supply.

(d) Upon order of any authority having jurisdiction of that matter.

(e) For any tampering or knowingly permitting any tampering with any service pipe, curb stop, meter or meter seal.

(f) For any fraudulent representation or concealment related to consumption for use of water.

(2) Water service discontinued for any of the foregoing reasons shall be renewed immediately and without charge, except for a charge for the estimated loss of water revenue in items (e) and (f) above, to a customer upon the correction of the condition causing the discontinuance.

(C) *Discontinuance after five-day notice.*

(1) The Utility reserves the right to discontinue all water service to all or any part of the premises of a customer who has been given at least five days written notice, either mailed to him or her at his or her address as shown on the records of the Utility or delivered personally to him or her or to a person on his or her premises, that his or her water service shall be discontinued in whole or in part if any situation as listed below continues:

(a) Delinquency in the customer's account with the Utility in connection with charges for water or sewer service supplied, meter or service maintenance or contractual payment for facilities.

(b) Failure to provide and maintain an adequate cash deposit guaranteeing payment of water and sewer bills as requested by the Utility.

(c) Wastage of water due to a leak in a privately owned water main, service pipe or appurtenance between the curb stop and the meter, in a private fire protection system or in any other un-metered facility connected directly or indirectly to the Utility's distribution mains.

(d) Failure to maintain free and non-hazardous access to the premises and to the water meter so that representatives of the Utility may take meter readings, make all necessary inspections and maintain, replace or remove the meter.

(e) Failure to maintain an approved meter setting, including pits and vaults.

(f) Installing a new service pipe and appurtenances and altering or removing existing service pipes and appurtenances including the meter without the written authority of the Utility.

(g) Vacancy of premises.

(h) Violation of any provision of this chapter.

(2) Water service discontinued for one of the foregoing reasons shall be renewed by the Utility upon application when the conditions under which that service was discontinued has been corrected, when all charges to the customer have been paid, and when access to the premises may be had during regular working hours. A charge commensurate with the cost of turning off

and turning on the service may be made. If shutting off or renewing the service involves any excavating, the cost of that work shall be an additional charge against the customer.

(D) Whenever the Utility has turned off a water service, the customer shall not turn it back on nor shall he or she cause any other person to turn such service on.

(E) The discontinuance of service shall not terminate a contract between the customer and the Utility nor shall it abrogate any minimum charge, which may be effective. The remedies provided the Utility in this chapter shall not be exclusive and shall be in addition to any other remedies, which the Utility has at law or in equity.

(1985 Code, § 36-9-2-14(t)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.33 NOTIFICATION OF LOAD INCREASE.

The service connections, meters and distribution mains have definite capacities. No substantial addition to the water consuming equipment or appliances connected to them shall be made except after written notice to and written consent from the Utility.

(1985 Code, § 36-9-2-14(u)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.34 RESALE OF WATER.

The water or service furnished under this chapter is for the use of the customer on his or her own premises. He or she shall not resell any water or service without the written consent of the Utility.

(1985 Code, § 36-9-2-14(v)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.35 PRIVATE FIRE PROTECTION SERVICE.

(A) The entire private fire protection service on a customer's premises shall be subject to inspection and tests by the Utility at such times, as it deems necessary.

(B) Before any modifications are made to any private fire service protection system or before service is furnished to any new private fire protection system connected to or proposed to be connected to and supplied with water from the Utility's distribution mains, final plans of that fire protection system shall be filed with and approved by the Utility Engineering Department. The following shall be shown on the final plans:

(1) The number of sprinkler heads to be served;
(2) The sizes and location of the system piping;
(3) The sizes and locations of all connections to the Utility's distribution mains;
(4) The sizes and locations of all valves;
(5) The sizes and locations of all hose connections, reels or cabinets;
(6) The sizes and locations of storage tanks connected to the fire system; and
(7) The outlet sizes and locations of all fire hydrants.

(C) All fire protection lines within buildings shall be installed so that all pipes shall be easily accessible for inspection at any time. Underground pipes outside of buildings shall be placed and maintained at a minimum depth of four and one-half feet. All private fire protection lines, hydrants and metering facilities shall be maintained by and at the expense of the customer.

(D) No connection with a fire protection system shall be permitted to supply water for general purposes unless the connection has been approved by the customer's fire underwriter and unless the general-purpose water is metered. If such a connection is approved, it shall be made outside the building to be served. Both the fire protection line and the general purpose line shall be

separately valved in accordance with the Utility's specifications to permit either to be turned on or off without affecting the other.

(E) A private fire protection system without a tank shall be equipped with an alarm valve and a check valve. A system with a tank shall have one alarm valve and two check valves.

(F) An un-metered private fire service is furnished for the sole purpose of supplying water for the extinguishments of accidental fires and the use of water from such a service connection for any other purpose shall be deemed an ordinance violation.

(G) Hydrants and other fixtures connected to a private fire service connection may be sealed by the Utility. That seal shall be broken only in case of fire or as specially permitted by the Utility. The customer shall immediately notify the Utility when any such seal is broken.

(H) Where a service tap on a Utility distribution main provides water for both fire and general purposes to a customer or customers, separate charges will be made for each purpose to each customer by the Utility in accordance with the established rules and schedule of rates.

(I) A private fire service, at the option of the customer and after the approval of his or her fire underwriter, may be connected to his or her metered water service. The minimum monthly charge for those combined fire and general-purpose uses shall be as set out in this chapter.

(J) Any additional investment cost incurred by the Utility in that metering shall be paid by the customer. Maintenance of the general water service meter will be at the expense of the Utility.

(K) If a private fire system is to be tested under the regulations of the fire service underwriters, the customer shall notify the Utility of that proposed test, stating the day and the hour when it is to be made, so the Utility may have a representative present for the test.

(1985 Code, § 36-9-2-14(w)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.36 INTERRUPTION OF SERVICE.

The Utility shall not be responsible in damages for any failure to supply water service or for interruption of the supply of water, or for defective piping on the customer's premises, or for damages resulting to a customer or to third persons through the use of water or the presence of the Utility's devices on the customer's premises, unless due to fault, negligence or culpability on the part of the Utility. Neither party shall be liable to the other for any failure or delay in case that failure or delay caused by strikes, the acts of nature, unavoidable accidents or contingencies beyond its control and not due to fault, neglect or culpability on its part.

(1985 Code, § 36-9-2-14(x)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.37 WATER MAIN EXTENSION POLICY.

(A) If any person desiring service from the Utility requests a water main extension, that person shall pay for the cost of the extension. The purpose of this requirement is to place the cost of the installation of local water mains upon the owners of the properties benefitted. Water transmission mains, feeder mains and over-sizing of local water mains will be paid for by the Utility providing funds are available. The term ***LOCAL WATER MAIN*** means a main, which from its size and character, is designed and intended to supply water needs, with adequate volumes and pressures only for properties abutting the street, alley, easement or other public land in which the main is laid but which is not designed and intended to feed collateral mains necessary to supply non-abutting properties.

(B) This extension requirement shall be subject to the specific provisions of the following division:

(1) *Free extensions.* The Utility shall, upon written request for service from a prospective customer or a group of prospective customers located in the same neighborhood, make free of charge an extension necessary to give service to the petitioning prospective customers when the total estimated revenue for a period of six years, from the prospective customer or customers is approximately equal to the cost of the extension, if, in the judgment of the Utility, the patronage or demand for water service shall be of a permanent nature warranting the expenditure involved.

(2) *Extension above free limit.* If the extension required in order to furnish service at any point within the city limits, or for any suburb adjacent or contiguous to those limits, is greater than the free extension specified in this division, that extension should be made if:

(a) *Petition for service.* Upon the presentation of a written petition for water service by an interested person or persons, the Utility shall enter into an agreement with those petitioners covering the necessary main extension, describing the installation, the method of apportioning costs among the petitioners, the total estimated cost if possible and other relevant facts and undertakings. This agreement shall contain a statement by the petitioners that they are willing to pay their proportionate share of the main extension if the project is constructed. Detailed engineering design shall not proceed if the petitioners do not agree to pay the necessary cost of the extension over and above the free limit as described in this division. The petition shall be valid for one year. An extension of time may be granted by the Utility. Preliminary engineering investigations shall be conducted at the Utility's expense for the benefit of petitioners. If those investigations require an excessive amount of time and cost in the judgment of the Utility Manager, a charge shall be applied to cover the cost prior to that initiating work.

(b) *Engineering and detailed cost estimate.* When the petitioners agree in writing to pay their proportionate share of the main extension, the Utility shall conduct the necessary field survey work and engineering design resulting in a detailed engineers' estimate of the cost of the project. Based upon the engineers' estimate, the project cost shall be allotted proportionately between the petitioners.

(c) *Contract for service.* Upon completion of the engineers' estimate, the Utility shall enter into a water main extension contract with said petitioners, which shall include a description of the installation, the estimated cost, the method of apportioning costs among the petitioners, and an arrangement for payment and other relevant facts and undertakings.

(d) *Initial deposit.* Prior to advertising for bids or starting construction as the case may be, the petitioners shall be required to deposit their share of the cost of the main extension with the Utility. The total initial deposit may be either in a cash payment or by an irrevocable letter of credit acceptable to the Utility and issued by a national banking association or a bank chartered under state law or secured in any other manner which is mutually acceptable to the parties and which guarantees payment of the deposit immediately upon completion of construction of the extension. When the total initial deposit has been made, the Utility shall advertise for bids on the project, award the bid and begin construction. Upon receipt of firm bid prices, the estimated project cost shall be adjusted to actual and the cost to the petitioners adjusted accordingly.

(e) *Cost basis.* The amount to be paid by petitioners for a main extension shall be the total costs of contractual labor and expense, utility labor and expense, material including handling charges and hauling costs, inspection, testing, disinfecting, overhead and engineering. Where feasible, petitioners may, by agreement with the Utility, furnish all or part of the foregoing cost elements, except inspection and testing. All those cost elements furnished shall conform to the standards of the Utility and the Utility shall be given certified statements of the actual costs of those elements paid for by the petitioner.

(f) *Engineering and over-sizing.* Main extension design and specifications shall either be prepared by the Utility Engineering Department or be approved by the Utility Engineer before installation by others. No pipe size smaller than that required to give that party an adequate supply of water including water for fire protection, nor less than eight inches in diameter shall be used, unless in the Utility's opinion, that installation shall not materially improve the flow characteristics of the system. If the design for future use or other engineering considerations indicate the need for a water main larger than eight inches, then the Utility shall assume the cost for over-sizing if funds are available. The computation of cost, either actual or estimated, shall be based on an eight inch main, unless a larger or smaller main as determined by the Utility, is reasonably necessary to serve the proposed customer or customers, including fire protection service. In this event the cost, estimated or actual, shall be based on the size of main required.

(g) *Ownership of mains.* After completion and acceptance by the Utility, the water main extension shall become the property of and shall be maintained by the Utility. The Utility may connect additional water mains to an extension without incurring any financial obligations to persons sharing the cost of the first extension.

(h) *Refund provision.* The contact between the Utility and the original petitioners shall provide that any person who did not share the original cost of the extension and who wishes to use the extension within 15 years from the date of the acceptance of that extension shall be required to pay a fair and proportionate share of the original cost of the extension. The amount of the share collected from such new customer shall be based on a fixed connection charge as follows:

TAP SIZE	***CONNECTION FEE***
3/4 inch connection	$800
1 inch connection	$1000
1-1/2 inch connection	$1200
2 inch connection	$1400
2-1/2 inch connection	$1600
3 inch connection	$2000
4 inch connection	$3000
6 inch connection	$4000
8 inch connection	$6000
10 inch connection	$8000
12 inch connection	$10,000

This additional share shall be refunded equitably to the original depositors annually or more frequently at the discretion of the Utility. The total amount refunded shall not exceed the amount of the original cost of the extension.

(i) *Exclusion of new subdivisions.*

1. New subdivisions shall be excluded from eligibility for refund agreements. The developer shall pay the entire cost of the necessary water main construction and recover the cost in the lot price.

2. Water main extensions from the terminus of existing water mains to the subdivision, which would be subject to future connections, are eligible for refund agreements.

(j) *Recording extension contracts.* To insure collection of share and connection charges for those providing funds for local water main installations, the Utility shall file the original water main extension contracts with the County Recorder.

(k) *Waiver of protest to annexation.* Petitioners for water main extensions and water service outside the city limits shall be required to execute a written agreement that the owner and his or her successors in title and assigns waive any rights to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by the city as a condition of receiving that water main extension and water service for that property.

(l) *Lateral extensions.* The Utility may connect additional water mains to an extension without incurring any financial obligation to person sharing the cost of the first extension. However, the Utility shall not permit a prospective customer whose property is contiguous to the first extension to obtain service from an additional extension installed laterally from that first extension unless the customer pays a proportionate share of the cost of the first extension. The Utility shall collect in advance from the owner of that property a fixed connection charge as follows:

TAP SIZE	*CONNECTION FEE*
3/4 inch connection	$800
1 inch connection	$1000
1-1/2 inch connection	$1200

TAP SIZE	*CONNECTION FEE*
2 inch connection	$1400
2-1/2 inch connection	$1600
3 inch connection	$2000
4 inch connection	$3000
6 inch connection	$4000
8 inch connection	$6000
10 inch connection	$8000
12 inch connection	$10,000

This additional lateral connection fee shall be refunded to the original depositors annually or more frequently at the discretion of the Utility. The total amount refunded shall not exceed the original cost of the extension.
(1985 Code, § 36-9-2-14(y)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.38 CONNECTION FEE.

If an applicant request water service and that service is to be connected to a water main which has not been financed by a refund agreement or by the abutting property owners or any other individual or group of individuals, that applicant shall pay to the Utility a connection charge of $156.
(1985 Code, § 36-9-2-14(z)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 31-1993, passed 12-21-1993; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.39 ABANDONED SERVICE LINES.

All abandoned service lines shall be physically cut-off and secured at the water main in order to eliminate the possibility of leakage due to deterioration. That work shall be performed in accordance with the requirements of the Utility engineering department at the expense of the customer, the property owner, or both.
(1985 Code, § 36-9-2-14(bb)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.40 DELINQUENT SEWER BILLS.

(A) If the property having a delinquent sewage bill is served by the Water Utility, the Utility may, after mailing a written notice at least ten days in advance to the water consumer and to the property owner, shut off water service to the property. The water service shall not be turned back on until the delinquent service charges and the costs of turning water service off and on have been paid.

(B) When water service has already been discontinued for any reason, the Utility shall deny water service to the property until the delinquent sewer bill has been paid.
(Ord. 32-2006, passed 9-19-2006)

§ 51.41 TEMPORARY WATER SERVICE.

Contractors and others using water for construction or any other temporary use shall obtain a permit for each separate job or location and whenever possible, install a water meter to determine the amount of water used. If it is not possible or practical to meter the water used, the Utility shall establish a charge based on estimated water use.
(1985 Code, § 36-9-2-14(ee)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.42 OTHER BASIS FOR EXTENSIONS.

No provision of this chapter shall prevent the Utility Service Board from extending water and sewer lines under a different policy so long as the public interest is thereby served.
(1985 Code, § 36-9-2-14(ff)) (Ord. 4-1980, passed 3-18-1980; Am. Ord. 32-2006, passed 9-19-2006)

§ 51.43 PUBLIC FIRE PROTECTION: RECOVERY OF WATER COSTS.

(A) Pursuant to I.C. § 8-1-2-103(d) and (f), the costs for the production, storage, transmission, sale, delivery, and furnishing of water for public fire protection purposes ("public fire costs") shall be included in the basic rates and charges of all customers of the city's water utility in and adjacent to the city in the manner and to the extent permitted by such statute.

(B) Effective upon the date of this change in the manner of recovering public fire costs, the city's municipally owned utility shall cease directly billing the city for public fire costs (other than charges for the construction cost for new hydrants installed on and after the date of the change).

(C) Public fire protection costs shall also be reflected in the rates of customers located in areas adjacent to the city and within 1,000 feet of a fire hydrant.

(D) Notwithstanding this change in the recovery of public fire costs, the construction cost of any fire hydrants installed at the request of the city (or other adjacent governmental unit shall continue to be paid for by or on behalf of the city (or other government unit).

(E) The change in method of recovering public fire costs described in I.C. § 8-1-2-103(d) and (f) shall be effective upon the first day of the first month following the new schedule of rates for which approval has been sought in Cause No. 42720.

(Ord. 40-2004, passed 12-21-2004; Am. Ord. 32-2006, passed 9-19-2006)

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GENERAL ORDINANCE NO. 32 - 2006
AN ORDINANCE MODIFYING WATER ORDINANCE AND AMENDING ORDINANCES IN CONFLICT HEREWITH

WHEREAS, the Marion Utility Service Board and the Common Council of the City of Marion, Indiana, have determined that the existing Water Ordinance, set out as existing Marion City Code 36-9-2-14, requires modification to account for changes in various circumstances and procedures; and

WHEREAS, it is necessary that the Water Department have reasonable opportunities to issue billing and protect water supplies;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana;

SECTION I

Marion City Code 36-9-2-14 is hereby amended to read as follows:

(b) RULES AND REGULATIONS

(1.) Definitions: The following terms shall be defined as set forth below for the purpose of this section:

a. Customer means any person, municipality or other governmental agency, which has agreed orally, or otherwise, to pay for water service received from the City Water Utility.

b. Board means the City Utility Service Board or any duly authorized officials acting in its behalf.

c. Premises means a dwelling, building, structure or parcel of real estate, which is normally supplied through a separate service pipe and meter installation.

d. Private Fire Service means a privately owned arrangement of pipes, fixtures and devices designed for stand-by service and from which water is taken only for extinguishments of fires.

e. Private Main means a privately owned pipe connected to the Utility's distribution system and used to deliver water or for general service purposes. Service rendered through a private main shall be billed directly by the Utility in accordance with established rates unless otherwise provided by written contract.

f. Service Pipe means a supply pipe including fittings leading from the tap in the distribution main to or into the premises supplied or to be supplied.

g. Tap or Corporation Stop means a fitting owned by the Utility and inserted into the distribution main to which the service pipe is attached.

h. Utility means the City Water Utility, owned by the City, operated and managed by the City Utility Service Board and engaged in furnishing public water in the City and its environs.

(c) RULES AND REGULATIONS ON FILE

The rules and regulations under which water service shall be rendered are incorporated by reference into this Code section. Two (2) copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for public inspection in accordance with Indiana Code 36-1-5. Another copy shall be filed for the convenience of the public in the general office of the utility.

(d) **WRITTEN APPLICATION OR CONTRACT REQUIRED**

A written service application or a properly executed contract will be required from a prospective customer (including a contractor or a builder) before the Utility shall supply service; however, the Utility shall have the right to reject an application for any valid reason. Where unusual construction or equipment expenses will be involved in furnishing the service, the Utility may require the contract to be for an appropriate period of time specified by the Utility when the contract is executed.

(e) **MODIFICATION OF CONTRACT**

No promises, agreements or representations by any agent of the Utility shall be binding upon the Utility unless they have been incorporated in a written contract signed and approved by an agent of the Utility authorized to sign that contract on behalf of the Utility.

(f) **ASSIGNMENT OF CONTRACT**

The benefits and obligations under any contract for the supply of water by the Utility shall begin when the Utility commences to supply water service there-under and shall inure to and be binding upon the successors, assigns, survivors, executor or administrator, as the case may be, of the original parties thereof; provided, that no assignment there of shall be made by the customer or by any successor, assign, survivor, executor or administrator unless the Utility's written consent to any such assignment is first obtained.

(g) **DEPOSITS**

The Utility may require from each applicant for water service a cash deposit equal to the applicant's estimated billing for a period of ninety (90) days or as established by City Ordinance against the non-payment of bills for service. However, if the applicant is an owner of real property whose credit is approved by the Utility, the Utility may waive that deposit. If the customer's bill remains unpaid for a period of five (5) days after the date of the final bill or the date of the discontinuance of service, the amount of that bill shall be deducted from the deposit and the balance, if any, will be remitted to the depositor.

(h) **TURNING ON WATER SERVICE**

Until a contract for water service has been executed and a meter has been installed, water shall not be turned on at any premises by any person except a Water Utility representative. Water service shall not be turned on unless there is at least one (1) adult person present to see that all water outlets on the premises are closed in order to prevent water damage.

No person except an authorized representative of the Utility, a Fire Department or the City Street Department shall open, operate or remove the nozzle cap from any fire hydrant to which water is supplied by the Utility.

When water is required to test plumbing before a water contract has been executed and a meter installed, a Water Utility employee shall be called to make the turn-on and turn-off. Any person except as Water Utility employee who makes such turn-on shall be deemed to have committed an ordinance violation.

(i) PAYMENT OF BILLS

All residential, industrial, and commercial bills shall be rendered monthly. If a bill is not paid on or before the due date, approximately fifteen (15) days after the bill is mailed to the customer, indicated on the bill, the customer shall be considered delinquent. Any time thereafter, prior to the payment of the past due bill, the Utility may, after serving notice, discontinue service.

All water charges are incurred by the customer rather than the property. If a customer moves from premises where he or she has been supplied with water service, the customer shall be held responsible for the payment of all bills rendered for the service supplied to those premises unless and until he or she gives proper notice at the office of the Utility that service is to be discontinued at those premises.

(j) DISCONTINUANCE OF SERVICE

Whenever a customer desires to have a service discontinued, he or she shall notify the Utility of that desire and of the date on which service is to be discontinued, sufficiently in

advance of that date to provide a reasonable time for the Utility to obtain the final meter reading.

The Utility shall not abate charges in whole or in part due to the extended service of the customer or for any other cause unless the Utility has been notified to turn off the water.

The Utility shall temporarily discontinue service at the request of a customer without charge during regular working hours. After regular working hours a service charge will be applied.

(k) **NEW SERVICE APPLICATIONS**

All customers who request water service which will require a new water main tap and service line shall be required to make a written application for service to the Utility engineering department. The application shall indicate the location of the premises to be served, size of service line and estimated water requirements. The Utility shall then advise the applicant of the form and character of the water supply available. Applications shall be valid for one (1) year. Any applicant may request an extension of time.

(l) **SERVICE CONNECTIONS**

All service pipes shall be cast iron, ductile iron or type "K" copper from the water main to the meter setting or curb stop. To provide a stable meter setting for outside residential meters, the outlet from the meter box shall be a minimum of three-quarter (3/4) inch ID

type "K" copper for horizontal distance of three (3) feet. No service pipe shall be less than three-quarter (3/4) of an inch ID.

The Utility reserves the right to determine the placement of each service connection so that the curb stop or meter box will, as a general rule, be located between the present or proposed sidewalk and curb, or at any other location which, in the judgment of the Utility, shall provide a safer, more convenient or more satisfactory location for the curb stop or meter box.

The customer at his or her own expense shall be responsible for construction of the service tap in the water main, the meter box, lid and yoke and the service line from the main to the premises served.

At the customer's expense, the service connection in the water main and the service line from the water main to the property line shall be installed by a licensed bonded plumber, approved by the Utility Manager, in accordance with specifications of the Utility.

The customer, at his or her own expense, shall install the meter box, lid and yoke at the property line all in accordance with specifications furnished by the Utility. The customer shall also at his or her own expense install the service line from the property line to the premises served. Type "K" copper is recommended for that use.

All tap connections two (2) inches ID and greater shall have plans and specifications submitted along with the application for approval by the Engineering Department.

Service pipes, curb stop, service boxes, meter pits, stop and waste valves and other fixtures used in the installation of, repairs to or additions to service pipes shall be of a type and quality approved by the Utility. The material and supplies of any manufacturer, which are in accordance with the Utility's standards specifications, may be approved.

As a general rule, water service shall not be furnished through a single service pipe to more than one property. Under unusual or exceptional conditions, the Utility may waive this rule if the circumstances require.

If service has been installed prior to March 18, 1980, and is not in accordance with the provisions of this City Code section, and if water is being taken through a single curb stop to supply two (2) or more premises, each customer benefiting from that arrangement shall be responsible for the payment of his or her own water bills and other legitimate charges.

Any violation of this City Code subsection with respect to either or any of those premises shall be deemed an ordinance violation as to all. The Utility may enforce compliance with this Code section by shutting off the supply of water to all; however, that action shall not be taken until the customer not in violation of this Code section has been given

written notice and a reasonable opportunity to attach his or her service pipe, at his or her own expense to a separately controlled curb stop.

A new service pipe between the distribution main and a building shall be run in a direct line whenever it is practicable and possible without bends and at a depth of not less than four and one half (4 ½) feet.

No pipe having joints shall be driven. Service pipes shall not be laid in the same trench with sewers or any other conduit unless written approval has been given by the Utilities Engineering Department.

New service lines shall be connected directly to a water distribution main, which is immediately adjacent to the property requesting service. If an adequate distribution main is not available immediately adjacent to the property requesting service the property owner shall petition for a water main extension in accordance with subsection (y).

(m) MAINTENANCE OF SERVICE PIPES AND METER BOXES

The service pipe and its fixtures from the water main to and including the curb stop shall be maintained in good repair at the expense of the Utility, including replacement if necessary because of damage, corrosion, tuberculation, or other deterioration. If replacement is necessary due to increased demand by the customer, that replacement shall be at the customer's expense.

The service pipe and its fixtures from the curb-stop to the building served, the meter excepted, shall be maintained at the expense of the customer or owner of the property. Any leaks or other defects in the pipe or fixture shall be promptly repaired by the customer or owner. A service line or private main extended to property not adjacent to a Utility water main, whether extended through public or private property, shall be maintained by the customer or owner, unless that line or main has been accepted in writing for maintenance by the Utility. If needed repairs are not made to that service line or private main within seven (7) days of written notification by the Utility, the customer or property owner may be charged Five Dollars ($5.00) per day for each day following that seven (7) day period of grace that the water leak or other defect is allowed to continue.

All meter boxes and lids shall be maintained in good repair by the owner at his or her expense. In the event that the shut-off is located inside the meter pit, the Utility shall maintain the service pipe up to the shut-off valve on the inlet side of the yoke and shall also furnish and maintain the meter. The owner shall maintain the meter yoke and service pipe leading from the outlet side of the yoke and shall be responsible for all changes in grade or location of the meter box.

(n) INSIDE PIPING AND SERVICE LINES

Each applicant for service shall, at his or her own expense, equip his or her main supply line with a suitable shut-off valve or valves just inside the foundation wall and shall provide all piping and attachments, all of which shall be assembled, installed and maintained by him or her, subject to the approval of any authorized inspectors and in accordance this Code section.

Each three-quarter (3/4) inch service line shall have compression type stop and waste valve on the inlet side of the meter. Each one (1) inch or larger service line shall have a gate type shut-off valve on both the inlet and outlet side of the meter.

(o) CROSS CONNECTIONS

No customer shall allow or cause the construction or maintenance of a cross connection. A cross connection is any physical arrangement, including non-working cross connection control devices, whereby a public water supply is directly connected, either continuously or intermittently, with any contaminated or otherwise un-potable liquid or material that may be imparted to the public water supply. The policy of Marion Utility Service Board (MUSB) further addresses cross connection and backflow hazards, application and installation requirements, testing, inspection, and compliance issues in keeping with the Indiana Administrative Code, as further referenced therein. The Cross Connection Control Policy of MUSB is hereby incorporated by reference into this code section. MUSB does not assume responsibility for damage, sickness, or death arising from the

existence of a cross connection or from the use or failure of a backflow prevention device, whether approved or not approved.

(p) **USE OF BOOSTER PUMP**

No booster pump shall be installed without the written approval of the Utility.

In all booster pump installations, the suction of the pump shall be connected to an atmospheric tank with City water flow entering the tank being controlled by an automatic float valve and feely discharging into the tank a minimum of six (6) inches above the positive overflow level of the tank.

As an alternative, a vacuum breaker valve with a cushioning valve shall be installed on the suction side of the pump.

In all cases, a device shall be installed to control the operation of the booster pump when pressure to the suction side of the pump drops as per Indiana Administrative Code, further referenced by MUSB Cross Connection Control Policy.

(q) **ACCESS TO PREMISES**

With consent of the owners or as authorized by law, properly authorized representative of the Utility shall have the right to enter upon the premises of the customer at all reasonable times for the purpose of inspection cross-connection protective devices, atmospheric tank

installations, booster pump vacuum breaker valves, and general plumbing, as well as for the purpose of reading, inspection, repairing or replacing meters used in connection with the service and removing those meters at the termination of the contract or discontinuance of the service.

(r) METERING

Unless otherwise specified in the contract between the Utility and the customer or by the tariff on file, the water supplied shall be measured by a meter or meters of standard manufacture, furnished and installed by the Utility in accordance with current standards. The customer shall provide for this purpose, free from expense to the Utility, a suitable place near the service entrance either in the basement in an approved meter box or in a location, which is approved by the Utility before installation.

The Utility shall designate the size of the meter to be used for serving any customer. Each building to be served directly from the main must be supplied by at least a three-quarter (3/4) inch ID service. If the service is larger than this, the Utility reserves the right to designate the number of meters that can be supplied by that service.

All meters or other appliances and equipment which are furnished by and at the expense of the Utility and which may at any time be on the customer's premises shall, unless otherwise expressly provided by this Code section, be and remain the property of the Utility. The customer shall protect that property from freezing and from any loss or

damage. No person except a representative of the Utility shall remove that property or tamper with it.

Ordinary repairs shall be made by the Utility without expense to the customer. Repairs of damage caused by carelessness or neglect by the customer shall also be made by the Utility but the cost of those repairs shall be charged to the customer.

A meter shall be tested for accuracy if the customer requests it. If the test establishes the accuracy of the meter to be within ninety-eight (98) per cent and one hundred two (102) per cent the Utility shall charge the customer Five Dollars ($5.00) for making the testing. The customer may have a representative present when the meter is tested.

(s) **BASIS FOR BILLING**

All charges for water usage, other than for un-metered fire service or other special purposes, shall be calculated upon the registration of the meter or meters installed.

The Utility shall make every effort to read industrial, residential and commercial meters on a regular basis. Those readings shall be prima facie evidence of the amount of water used. If a meter fails to measure accurately or is not read for any reason, the customer shall be billed an estimated charge based on the average of the previous billings. The first billing made after the meter is read shall be adjusted according to the meter reading.

If water is taken through more than one (1) meter, and if that arrangement is for the convenience of the customer, then each meter shall be read and billed separately. If water is taken through more than one (1) meter for the convenience of the Utility, then the meter readings shall be aggregated and billed as one (1) reading.

All water passing through meters shall be charged for, whether used, wasted or lost through leakage. However, the MUSB may, at its discretion, adjust individual customer water charges for hidden leaks. A hidden leak is defined as: any leak which in ordinary usage cannot be detected by loss of pressure, sound, or sight of running water.

(t) DENIAL OR DISCONTINUANCE OF SERVICE FOR CAUSE

(1) Denial of Service

The Utility reserves the right to refuse an application for service if the applicant is indebted to the Utility for prior service rendered at any location. The Utility shall make known to the applicant the reason for that refusal.

The Utility shall also refuse to turn water service on to a property having delinquent sewer service charges outstanding.

(2) Discontinuance Without Notice

The Utility reserves the right to discontinue service without notice to any customer:

a. When an emergency exists.
b. For unauthorized use of water.
c. For an unapproved cross connection of a customer's water pipes to any other source of water supply or for permitting any condition to exist about his or her premises that causes or might cause pollution of the public water supply.
d. Upon order of any authority having jurisdiction of that matter.
e. For any tampering or knowingly permitting any tampering with any service pipe, curb stop, meter or meter seal.
f. For any fraudulent representation or concealment related to consumption for use of water.

Water service discontinued for any of the foregoing reasons shall be renewed immediately and without charge, except for a charge for the estimated loss of water revenue in items (e) and (f) above, to a customer upon the correction of the condition causing the discontinuance.

(3) Discontinuance After Five-Day Notice

The Utility reserves the right to discontinue all water service to all or any part of the premises of a customer who has been given at least five (5) days written notice, either mailed to him or her at his or her address as shown on the records of the Utility or delivered personally to him or her or to a person on his or her premises, that his or her water service shall be discontinued in whole or in part if any situation as listed below continues:

a. Delinquency in the customer's account with the Utility in connection with charges for water or sewer service supplied, meter or service maintenance or contractual payment for facilities.
b. Failure to provide and maintain an adequate cash deposit guaranteeing payment of water and sewer bills as requested by the Utility.
c. Wastage of water due to a leak in a privately owned water main, service pipe or appurtenance between the curb stop and the meter, in a private fire protection system or in any other un-metered facility connected directly or indirectly to the Utility's distribution mains.
d. Failure to maintain free and non-hazardous access to the premises and to the water meter so that representatives of the Utility may take meter readings, make all necessary inspections and maintain, replace or remove the meter.
e. Failure to maintain an approved meter setting, including pits and vaults.

f. Installing a new service pipe and appurtenances and altering or removing existing service pipes and appurtenances including the meter without the written authority of the Utility.

g. Vacancy of premises.

h. Violation of any provision of this City Code section.

Water service discontinued for one of the foregoing reasons shall be renewed by the Utility upon application when the conditions under which that service was discontinued has been corrected, when all charges to the customer have been paid, and when access to the premises may be had during regular working hours. A charge commensurate with the cost of turning off and turning on the service may be made. If shutting off or renewing the service involves any excavating, the cost of that work shall be an additional charge against the customer.

(4) Whenever the Utility has turned off a water service, the customer shall not turn it back on nor shall he or she cause any other person to turn such service on.

(5) The discontinuance of service shall not terminate a contract between the customer and the Utility nor shall it abrogate any minimum charge, which may be effective. The remedies provided the Utility in this City Code section shall not be exclusive and shall be in addition to any other remedies, which the Utility has at law or in equity.

(u) Notification of Load Increase

The service connections, meters and distribution mains have definite capacities. No substantial addition to the water consuming equipment or appliances connected to them shall be made except after written notice to and written consent from the Utility.

(v) Resale of Water

The water or service furnished under this Code section is for the use of the customer on his or her own premises. He or she shall not resell any water or service without the written consent of the Utility.

(w) Private Fire Protection Service

The entire private fire protection service on a customer's premises shall be subject to inspection and tests by the Utility at such times, as it deems necessary.

Before any modifications are made to any private fire service protection system or before service is furnished to any new private fire protection system connected to or proposed to be connected to and supplied with water from the Utility's distribution mains, final plans of that fire protection system shall be filed with and approved by the Utility Engineering Department. The following shall be shown on the final plans:

1. The number of sprinkler heads to be served;
2. The sizes and location of the system piping;
3. The sizes and locations of all connections to the Utility's distribution mains;
4. The sizes and locations of all valves;
5. The sizes and locations of all hose connections, reels or cabinets;
6. The sizes and locations of storage tanks connected to the fire system;
7. The outlet sizes and locations of all fire hydrants.

All fire protection lines within buildings shall be installed so that all pipes shall be easily accessible for inspection at any time. Underground pipes outside of buildings shall be places and maintained at a minimum depth of four and one-half (4 ½) feet. All private fire protection lines, hydrants and metering facilities shall be maintained by and at the expense of the customer.

No connection with a fire protection system shall be permitted to supply water for general purposes unless the connection has been approved by the customer's fire underwriter and unless the general-purpose water is metered. If such a connection is approved, it shall be made outside the building to be served. Both the fire protection line and the general purpose line shall be separately valved in accordance with the Utility's specifications to permit either to be turned on or off without affecting the other.

A private fire protection system without a tank shall be equipped with an alarm valve and a check valve. A system with a tank shall have one (1) alarm valve and two (2) check valves.

An un-metered private fire service is furnished for the sole purpose of supplying water for the extinguishments of accidental fires and the use of water from such a service connection for any other purpose shall be deemed an ordinance violation.

Hydrants and other fixtures connected to a private fire service connection may be sealed by the Utility. That seal shall be broken only in case of fire or as specially permitted by the Utility. The customer shall immediately notify the Utility when any such seal is broken.

Where a service tap on a Utility distribution main provides water for both fire and general purposes to a customer or customers, separate charges will be made for each purpose to each customer by the Utility in accordance with the established rules and schedule of rates.

A private fire service, at the option of the customer and after the approval of his or her fire underwriter, may be connected to his or her metered water service. The minimum monthly charge for those combined fire and general-purpose uses shall be as set out in this Code section.

Any additional investment cost incurred by the Utility in that metering shall be paid by the customer. Maintenance of the general water service meter will be at the expense of the Utility.

If a private fire system is to be tested under the regulations of the fire service underwriters, the customer shall notify the Utility of that proposed test, stating the day and the hour when it is to be made, so the Utility may have a representative present for the test.

(x) **Interruption of Service**

The Utility shall not be responsible in damages for any failure to supply water service or for interruption of the supply of water, or for defective piping on the customer's premises, or for damages resulting to a customer or to third persons through the use of water or the presence of the Utility's devices on the customer's premises, unless due to fault, negligence or culpability on the part of the Utility. Neither party shall be liable to the other for any failure or delay in case that failure or delay caused by strikes, the acts of nature, unavoidable accidents or contingencies beyond its control and not due to fault, neglect or culpability on its part.

(y) **Water Main Extension Policy**

IF any person desiring service from the Utility requests a water main extension, that person shall pay for the cost of the extension. This purpose of this requirement is to place the cost of the installation of local water mains upon the owners of the properties benefited. Water transmission mains, feeder mains and over-sizing of local water mains will be paid for by the Utility providing funds are available. The term "local water main" means a main, which from its size and character, is designed and intended to supply water needs, with adequate volumes and pressures only for properties abutting the street, alley, easement or other public land in which the main is laid but which is not designed and intended to feed collateral mains necessary to supply non-abutting properties.

This extension requirement shall be subject to the specific provisions of the following paragraphs:

1. Free Extensions

The Utility shall, upon written request for service from a prospective customer or a group of prospective customers located in the same neighborhood, make free of charge an extension necessary to give service to the petitioning prospective customers when the total estimated revenue for a period of six (6) years, from the prospective customer or customers is approximately equal to the cost of the extension, if, in the judgment of the Utility, the patronage or demand for water service shall be of a permanent nature warranting the expenditure involved.

2. Extension Above Free Limit

If the extension required in order to furnish service at any point within the City limits, or for any suburb adjacent or contiguous to those limits, is greater than the free extension specified in this subsection, that extension should be made if:

a. Petition for Service

Upon the presentation of a written petition for water service by an interested person or persons, the Utility shall enter into an agreement with those petitioners covering the necessary main extension, describing the installation, the method of apportioning costs among the petitioners, the total estimated cost if possible and other relevant facts and undertakings. This agreement shall contain a statement by the petitioners that they are willing to pay their proportionate share of the main extension if the project is constructed. Detailed engineering design shall not proceed if the petitioners do not agree to pay the necessary cost of the extension over and above the free limit as described in this subsection. The petition shall be valid for one (1) year. An extension of time may be granted by the Utility. Preliminary engineering investigations shall be conducted at the Utility's expense for the benefit of petitioners. If those investigations require an

excessive amount of time and cost in the judgment of the Utility Manager, a charge shall be applied to cover the cost prior to that initiating work.

b. Engineering and Detailed Cost Estimate

When the petitioners agree in writing to pay their proportionate share of the main extension, the Utility shall conduct the necessary field survey work and engineering design resulting in a detailed engineers' estimate of the cost of the project. Based upon the engineers' estimate, the project cost shall be allotted proportionately between the petitioners.

c. Contract for Service

Upon completion of the engineers' estimate, the Utility shall enter into a water main extension contract with said petitioners, which shall include a description of the installation, the estimated cost, the method of apportioning costs among the petitioners, and an arrangement for payment and other relevant facts and undertakings.

d. Initial Deposit

Prior to advertising for bids or starting construction as the case may be, the petitioners shall be required to deposit their share of the cost of the main extension with the Utility. The total initial deposit may be either in a cash payment or by an irrevocable letter of credit acceptable to the Utility and issued by a national banking association or a bank chartered under State law or secured in any other manner which is mutually acceptable to the parties and which guarantees payment of the deposit immediately upon completion of construction of the extension. When the total initial deposit has been made, the Utility shall advertise for bids on the project, award the bid and begin construction. Upon receipt of firm bid prices, the estimated project cost shall be adjusted to actual and the cost to the petitioners adjusted accordingly.

e. Cost Basis

The amount to be paid by petitioners for a main extension shall be the total costs of contractual labor and expense, Utility labor and expense, material including handling charges and hauling costs, inspection, testing, disinfecting, overhead and engineering. Where feasible, petitioners may, by agreement with the Utility, furnish all or part of the foregoing cost elements, except inspection and testing. All those cost elements furnished shall conform to the standards of the Utility and the Utility shall be given certified statements of the actual costs of those elements paid for by the petitioner.

f. Engineering and Over-sizing

Main extension design and specifications shall either be prepared by Utility engineering department or be approved by the Utility Engineer before installation by others. No pipe size smaller than that required to give that party an adequate supply of water including water for fire protection, nor less than eight (8) inches in diameter shall be used, unless in the Utility's opinion, that installation shall not materially improve the flow characteristics of the system. If the design for future use or other engineering considerations indicate the need for a water main larger than eight (8) inches, then the Utility shall assume the cost for over-sizing if funds are available. The computation of cost, either actual or estimated, shall be based on an eight (8) inch main, unless a larger or smaller main as determined by the Utility, is reasonably necessary to serve the proposed customer or customers, including fire protection service. In this event the cost, estimated or actual, shall be based on the size of main required.

g. Ownership of Mains

After completion and acceptance by the Utility, the water main extension shall become the property of and shall be maintained by the Utility. The Utility may

connect additional water mains to an extension without incurring any financial obligations to persons sharing the cost of the first extension.

h. Refund Provision

The contact between the Utility and the original petitioners shall provide that any person who did not share the original cost of the extension and who wishes to use the extension within fifteen (15) years from the date of the acceptance of that extension shall be required to pay a fair and proportionate share of the original cost of the extension. The amount of the share collected from such new customer shall be based on a fixed connection charge as follows:

TAP SIZE	CONNECTION FEE
¾ Inch Connection	$800.00
1 Inch Connection	1000.00
1 ½ Inch Connection	1200.00
2 Inch Connection	1400.00
2 ½ Inch Connection	1600.00
3 Inch Connection	2000.00
4 Inch Connection	3000.00

6 Inch Connection	4000.00
8 Inch Connection	6000.00
10 Inch Connection	8000.00
12 Inch Connection	10,000.00

This additional share shall be refunded equitably to the original depositors annually or more frequently at the discretion of the Utility. The total amount refunded shall not exceed the amount of the original cost of the extension.

i. Exclusion of New Subdivisions

New subdivisions shall be excluded from eligibility for refund agreements. The developer shall pay the entire cost of the necessary water main construction and recover the cost in the lot price.

Water main extensions from the terminus of existing water mains to the subdivision, which would be subject to future connections, are eligible for refund agreements.

j. Recording Extension Contracts

To insure collection of share and connection charges for those providing funds for local water main installations, the Utility shall file the original water main extension contracts with the County Recorder.

k. Waiver of Protest to Annexation

Petitioners for water main extensions and water service outside the City limits shall be required to execute a written agreement that the owner and his or her successors in title and assigns waive any rights to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by the City as a condition of receiving that water main extension and water service for that property.

l. Lateral Extensions

The Utility may connect additional water mains to an extension without incurring any financial obligation to person sharing the cost of the first extension. However, the Utility shall not permit a prospective customer whose property is contiguous to the first extension to obtain service from an additional extension installed laterally from that first extension unless the customer pays a proportionate share of the cost of the first extension. The Utility shall collect in advance from the owner of that property a fixed connection charge as follows:

TAP SIZE	CONNECTION FEE
¾ Inch Connection	$800.00
1 Inch Connection	1000.00
1 ½ Inch Connection	1200.00
2 Inch Connection	1400.00
2 ½ Inch Connection	1600.00
3 Inch Connection	2000.00
4 Inch Connection	3000.00
6 Inch Connection	4000.00
8 Inch Connection	6000.00
10 Inch Connection	8000.00
12 Inch Connection	10,000.00

This additional lateral connection fee shall be refunded to the original depositors annually or more frequently at the discretion of the Utility. The total amount refunded shall not exceed the original cost of the extension.

(z) Connection Fee

If an applicant request water service and that service is to be connected to a water main which has not been financed by a refund agreement or by the abutting property owners or any other individual or group of individuals, that applicant shall pay to the Utility a connection charge of One Hundred Fifty Six Dollars (156.00) (*see amendment ord. 31-1993).*

(aa) Feasibility of Extension

The Utility shall not be required to make extensions under this Code section unless the customers initially to be served by that extension shall contract to use the service for a period of three (3) years.

(bb) Abandoned Service Lines

All abandoned service lines shall be physically cut-off and secured at the water main in order to eliminate the possibility of leakage due to deterioration. That work shall be performed in accordance with the requirements of the Utility engineering department at the expense of the customer, the property owner, or both.

(cc) Delinquent Sewer Bills

If the property having a delinquent sewage bill is served by the water utility, the Utility may, after mailing a written notice at least ten (10) days in advance to the water consumer and to the property owner, shut off water service to the property. The water

service shall not be turned back on until the delinquent service charges and the costs of turning water service off and on have been paid.

When water service has already been discontinued for any reason, the Utility shall deny water service to the property until the delinquent sewer bill has been paid.

(dd) Inability to Read Meter

If the Utility is unable to gain access to an inside meter setting in order to obtain a reading for one (1) full year, the Utility shall send the customer a letter requesting arrangements for access within regular working hours or service will be discontinued.

(ee) Temporary Water Service

Contractors and others using water for construction or any other temporary use shall obtain a permit for each separate job or location and whenever possible, install a water meter to determine the amount of water used. If it is not possible or practical to meter the water used, the Utility shall establish a charge based on estimated water use.

(ff) Other Basis for Extensions

No provision of this City Code section shall prevent the City Utility Service Board from extending water and sewer lines under a different policy so long as the public interest is thereby served. *See Res. #1-2001.*

SECTION II

All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that the existing schedule of water rates and charges shall remain in full force and effect until the schedule of rates and charges fixed by this ordinance shall be approved and ordered into effect by the Indiana Utility Regulatory Commission.

SECTION III

This ordinance shall be in full force and effect from and after its passage, approval and ordering into effect of the rates and charges herein set out by the Indiana Utility Regulatory Commission.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 19 day of Sept., 2006.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 20 day of Sept., 2006.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 21st day of September, 2006.

Mayor, City of Marion, Indiana

REGULAR MEETING – MARION COMMON COUNCIL – SEPTEMBER 19, 2006 – 7:00 P.M., CITY HALL

The Common Council of the City of Marion, Indiana met in regular session on Tuesday, the 19th day of September, 2006 at the hour of 7:00 p.m. in the Council Chambers, City Hall.

On the call of the roll the following members were shown to be absent or present as follows:

Present: Miller, Secttor, Batchelor, Nevels, Wright, Homer and Smith.
Absent: Murrell and Garcia.

The minutes of the previous regular meeting of September 5, 2006 were presented. On a motion by Secttor, 2nd by Smith, the minutes were approved as presented by the following vote. Aye: Miller, Secttor, Batchelor, Nevels, Smith and Homer. Nay: None. Abstain: Wright.

Council Vice-President Dave Homer told the Council he will be sitting in this evening for Mr. Garcia who is out of town on business at a training session and called late this afternoon, asking him to sit in.

COMMITTEE REPORTS: Councilman Steve Wright reported that they did have a meeting with the Tax Abatement Committee just previous to this meeting and they'll give their report later on in the meeting as the tax abatement comes before the Council.

Councilman Homer said he's been asked to make one announcement in regards to the animal licenses. That has taken effect so, to notify people, that the animal licenses will be sold upstairs. They can purchase those at the Controller's Office. Is there any other information that they need to pass along to people, anything they need to bring with them to make the process easier, Homer asked. City Controller Cindy Wright indicated there's not. Homer asked, have they already had calls from people? Mrs. Wright said they have. Councilwoman Ann Secttor asked, how much are the licenses? Mrs. Wright replied, $2.00 for an altered dog or cat and $3.00 for unaltered and $30 for a kennel license. Secttor asked, what's a kennel license? Corporate Counsel Mark Spitzer responded, if they're qualified, under the Zoning Ordinance, they have a kennel if they have more than five animals.

Mr. Homer then said, at this time, he's been asked that Stacy Henderson, the assistant to the Mayor, if she'll come forward, she has an announcement she'd like to make to the Council. Mrs. Henderson said she just wanted to let them all know that, as of late last week, the Mayor did receive an official resignation from Ken Ellis, their Planning Director. Ken has accepted a position with the county so he will be replacing Mrs. Ford over at the county. His last date with them (city) will be September 29th so that's why she wanted to go ahead and let them know because, by the time they have their next Council meeting, he will already be gone and no longer employed with the city. So, they are working actively to try to recruit somebody as soon as possible to replace Ken. Ken's done a great job for them in their Administration. A wealth of knowledge at the table whenever they've done any economic development stuff and he will be greatly, greatly missed. He was an asset to them and so now they search on. She just wanted to let them know, if anybody has any questions concerning his resignation, Henderson said.

Councilman Alan Miller said, he might ask the question. Did Mr. Garcia, by chance, mention to him (Homer) whether he had or had not received a letter of resignation from a Utility Board member? Mr. Homer replied, he did not. Miller said, some of them received an email copy and he (Garcia) did not have the actual document the last meeting. Well, he guessed they'll have to wait until he gets back before they take any action on that.

UNFINISHED BUSINESS

APPROPRIATION ORDINANCE NO. 12-2006 3RD READING

The City Clerk read Appropriation Ordinance No. 12-2006 by title only. Budget for the City of Marion, Indiana for the year 2007. Corporate Counsel Mark Spitzer told the Council this is the third and final reading for the budget. They've obviously had a considerable amount of discussion on it (inaudible) but it does require three readings and so the

GENERAL ORDINANCE NO. 31-2006 Continued

tonight again is Shawn Montgomery of Advance Auto Parts as they look to build their second location within the city. They have in front of them two, one ordinance and one resolution. The resolution is the confirmatory. The reason they have an ordinance is that the state law mandates an ordinance for residential and commercial properties. They'll gladly answer any questions they may have, Eckerle said. Being no questions from the Council, Council Vice-President Dave Homer said this is a 2nd reading and public hearing and anyone that would like to come up and speak for or against may do so at this time. There was no response from the audience. Before a motion was made, Councilman Steve Wright said he did want to give a report real quick about the Tax Abatement Committee meeting before this meeting. It did go before them and it came out with a favorable recommendation. He just wants to point out a couple of things on this particular project. Currently, it's a barren piece of ground with a lot of concrete on it. They are going to hire 10 people with salaries of up to around $190,000, coming into their community. And so, here's 10 new jobs, paying well and so they appreciate their investment into the community. Wright then made a motion to suspend the rules on General Ordinance No. 31-2006. Motion was seconded by Smith and carried by the following vote. Aye: Miller, Secttor, Batchelor, Nevels, Wright, Smith and Homer. Nay: None. Motion was then made by Wright, 2nd by Smith to pass General Ordinance No. 31-2006 in its entirety. Motion carried by the following vote. Aye: Miller, Secttor, Batchelor, Nevels, Wright, Smith and Homer. Nay: None. Councilwoman Ann Secttor asked, may she just make a comment? China Inn was the name of that restaurant.

RESOLUTION NO. 34A-2006

The City Clerk read Resolution No. 34A-2006 by title only. Confirmatory Resolution of the City Council of Marion, Indiana, declaring economic revitalization area for property tax deductions on real estate for Advance Auto, 1121 North Baldwin Avenue, Marion, Indiana. Tim Eckerle, Executive Director of the Grant County Economic Growth Council, told the Council he doesn't think he can add any more than what's been previously said but they would gladly ans any questions. Being no questions from the Council, Council Vice-President Dave Homer said this is a public hearing. Anybody that would like to speak for or against, please step forward and do so at this time. There was no response from the audience. Motion was made by Wright, 2nd by Smith to pass Resolution No. 34A-2006 and carried by the following vote. Aye: Miller, Secttor, Batchelor, Nevels, Wright, Smith and Homer. Nay: None.

GENERAL ORDINANCE NO. 32-2006 2ND READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 32-2006 by title only. An Ordinance modifying Water Ordinance and amending ordinances in conflict herewith. Bill McElhaney, Utilities Director, told the Council he's standing in for Chuck (Binkerd) tonight. He's out of the city, receiving Water Management training and so he'll be answering any questions. He believes during the last Council meeting, Chuck explained that this is a housekeeping matter and also changing the citing to the statutes so they are correct. So, he would be happy to answer any questions they might have, McElhaney said. Being no questions from the Council, Council Vice-President and Chairman of the Ordinance Committee Dave Homer stated, he might add that the Ordinance Committee did meet on this subject and they do give this favorable approval and mentioned that at the first reading. This is a 2nd reading and public hearing and anybody who has any comments for or against may step forward at this time, Homer said. Being no response from the audience, motion was made by Miller to suspend the rules on General Ordinance No. 32-2006. Motion was seconded by Nevels and carried by the following vote. Aye: Miller, Secttor, Batchelor, Nevels, Wright, Smith and Homer. Nay: None. Motion was then made by Miller, 2nd by Secttor to approve General Ordinance No. 32-2006 and carried by the following vote. Aye: Miller, Secttor, Batchelor, Nevels, Wright, Smith and Homer. Nay: None.

NEW BUSINESS

GENERAL ORDINANCE NO. 29-2006 1ST READING

The City Clerk read General Ordinance No. 29-2006 by title only. An Ordinance to vacate a portion of a public way adjacent to that property commonly known as 2004 W. 4th Street to the City of Marion, Indiana. Josh Howell, attorney for petitioner, told the Council this is a platted section that would extend Norton Avenue south from 4th Street. It has

MARION UTILITY

SERVICE BOARD

CROSS CONNECTION

CONTROL POLICY

Effective June 1, 2006

TABLE OF CONTENTS

I. Purpose

II. Authority

III. Responsibility

IV. Policy

V. Procedures

VI. Periodic Testing

IV. Definitions

Marion Utility Service Board

Cross Connection Control Policy

I. Purpose

A. To protect the public potable water supply served by the Marion Utility Service Board from the possibility of contamination or pollution by isolating, within its customers internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the public water system.

B. To promote the elimination or control of existing cross connections, actual or potential, between its customers in-plant potable water system, and non-potable systems.

C. To provide for the maintenance of a continuing program of cross connection control that will effectively prevent the contamination or pollution of all potable water systems by cross connection.

II. Authority

A. The implementation of this Policy is authorized by the Marion Utility Service Board Water Rules and Regulations.

B. This Policy does not supersede the Indiana Plumbing Code or the IDEM Rule 327 IAC 8-10, but is supplementary to them.

III. Responsibility

A. The **Marion Utility Service Board** shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or backsiphonage of contaminants or pollutants through the water service connection. If, in the judgment of said Board, an approved backflow device is required at the city's water service connection to any customer's premises, the Board, or its delegated agent, shall give notice in writing to said customer to install an approved backflow prevention device at each service connection to his premises. The customer shall install such approved device, or devices, at his own expense, and failure or refusal, or inability on the part of the customer to install said device or devices, shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

B. The **customer** has the responsibility for protecting both the public water supply and his internal potable water. After the Board has determined the type and location of backflow protection required, the customer shall be responsible for procuring installing, testing, repair, and maintenance of the required assembly to protect the public water supply. The customer is also responsible for preventing the contamination and pollution of his internal water system through a program of fixture outlet protection. He may utilize public health officials, plumbing inspectors, or other Backflow Specialists to assist him in the survey of his facilities and to assist him in the selection of proper fixture outlet devices, and the proper installation of these devices.

Cross Connection Control Policy

IV. Policy

A. No water service connection to any commercial, industrial, and certain other facilities' shall be allowed by the Board unless the water supply is protected as required by the Marion Utility Service Board Water Rules and Regulations and this Cross Connection Control Policy. Service of water to any premise shall be discontinued by the Board if a backflow prevention assembly required by this Policy is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

B. The Board recognizes the threat to the public water system arising from cross-connections. All threats will be classified by degree of hazard and will require the installation of approved reduced pressure principle backflow prevention devices (RP) or double check valve assembly (DC).

C. An approved RP shall be installed on each commercial, industrial, and certain other facilities' service lines at or near the property line or immediately inside the building before the first branch leads off the service line wherever the following conditions exist:

   a. Any facility that is being constructed or remodeled or is undergoing a change in ownership or occupancy.
   b. Any existing facility required to have backflow protection per 327 IAC 8-10-4.
   c. Any existing facility where multiple, potential or actual, protected or unprotected cross connections exist.
   d. Any existing facility where a customer's water distribution system contains intricate plumbing and piping arrangements or is not readily accessible and available for inspection purposes.
   e. Any existing facility using a booster pump. In addition, the booster pump shall be operated in accordance with 327 IAC 8-10-3.
   f. Any existing facility with temporary connections for filling tanks, tanker trucks, spraying trucks, and other containers.

D. A customer may request to be exempt from the installation of an RP device on the service line. The customer shall submit an application to the Board requesting approval for the installation of an alternate device or a waiver from installing a device. If an exemption is granted and a change in use occurs at the facility, the exemption shall no longer be valid and the customer shall install an RP device or re-apply for an exemption. The following will generally be exempt from the installation of an RP on the service line:

   a. Fire protection systems that do not contain hazardous chemicals may be protected by a properly installed Double Check Detector Check Assembly.
   b. Land irrigation systems that are not under back-pressure may be protected by a properly installed Pressure Vacuum Breaker.

E. Any backflow prevention device existing prior to implementation of this Policy and properly maintained shall be allowed by the Board to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer, or result in an unreasonable risk to the public health.

Cross Connection Control Policy

V. Procedures

A. Marion Utility Service Board

a. The Board will operate a cross connection control program which fulfills the requirements of the Marion Utility Service Board Water Rules and Regulations.
b. On new installations, the Board will require an RP to be installed on the service line to the facility. The RP information and any exemptions allowed will be tracked on the tap permit in the Utility Engineering Office.
c. For premises existing prior to the start of this Policy, the Board will inspect facilities and inform the customer by letter of any corrective action deemed necessary and the time allowed for the correction to be made. Ordinarily, sixty (60) days will be allowed for corrective action to occur or a compliance schedule to be agreed upon. The time period may be shortened depending upon the degree of hazard involved and the history of the device(s) in question.
d. The Board shall inform the customer by letter, of any failure to comply. The Board will allow an additional fifteen (15) days for the correction. In the event the customer fails to comply with the necessary correction by the time of the second re-inspection, the Board will inform the customer by letter, that the water service to the customer's premises will be terminated within a period not to exceed five (5) days. In the event that the customer informs the Board of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Board.
e. If the Board determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.
f. The Board shall have on file, a list of Private Contractors who are certified backflow device testers. All charges for these tests will be paid by the customer of the building or property.
g. The Board will begin initial premise inspections to determine the nature of existing or potential hazards during the calendar year 2006. Initial focus will be on facilities with contamination hazards.

B. Customer

a. The Customer shall be responsible for the elimination or protection of all cross connections on his premises.
b. The Customer shall allow his property to be inspected for possible cross connections and shall follow the provisions of this Policy and the Marion Utility Service Board Water Rules and Regulations.
c. The Customer, after having been informed by a letter from the Board, shall at his expense, install, maintain, and test, or have tested, any and all backflow preventers on his premises.
d. The Customer shall correct any malfunction of the backflow preventer which is revealed by periodic testing.
e. The Customer shall inform the Board of any proposed or modified cross connections and also any existing cross connections of which the Customer is aware but has not been found by the Board.
f. The Customer shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Customers who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.

g. The Customer shall install backflow preventers in accordance with 327 IAC 8-10-7 or in a manner approved by the Board. The Customer shall install only backflow preventers approved 327 IAC 8-10-7 (b) or by the Board.
h. No water piping supplied by any private water supply shall be connected to the public water supply.
i. The Customer shall be responsible for the payment of all annual or semi-annual device testing and repairing and retesting in the case that the device fails to operate correctly.
j. Nothing herein shall release the customer of the responsibility for conducting periodic surveys of water use practices on his premises to determine whether there are any actual or potential uncontrolled cross connections within the customer's water system through which contaminants could backflow into his own and/or the public water supply systems.

VI. Periodic Testing

A. Backflow prevention devices shall be tested in accordance with 327 IAC 8-10-8 or as determined by the Board.

B. Periodic testing shall be performed by an Indiana certified tester. This testing will be done at the customer's expense.

C. Any backflow preventer which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair the device will be re-tested to insure correct operation. High hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than thirty (30) days after the test date will be established. Parallel installation of two (2) devices is an effective means of the customer insuring uninterrupted water service during testing or repair of devices and is strongly recommended when the customer desires such continuity.

D. Backflow prevention devices may be required to be tested more frequently than specified above, in cases where there is a history of test failures and the Board feels that due to the degree of hazard involved, additional testing is warranted.

IV. Definitions

A. Backflow: The flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

B. Backflow Preventer: A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, and barometric loop.
   a Air Gap: A physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system.

Cross Connection Control Policy

b Atmospheric Vacuum Breaker: A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or subatmospheric pressure in a water system.

c Double Check Valve Assembly: An assembly of two (2) independently operating spring loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

d Hose Bibb Vacuum Breaker: A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.

e Pressure Vacuum Breaker: A device containing one or two independently operated spring loaded check valves and an independently operated spring loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).

f Reduced Pressure Principle Backflow Preventer: An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

C. Backpressure: A condition in which the customer's system pressure is greater than the supplier's system pressure.

D. Backsiphonage: The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

E. Board: Marion Utility Service Board or its designated representative.

F. Containment: A method of backflow prevention which requires a backflow prevention preventer at the water service entrance.

G. Contaminant: A substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

H. Cross Connection: Any actual or potential connection between the public water supply and a source of contamination or pollution.

I. Customer: Any person who has legal title to, or license to operate or habitat in, a property upon which a cross connection inspection is to be made or upon which a cross connection is present.

J. Fixture Isolation: A method of backflow prevention in which a backflow preventer is located to correct a cross connection at an in-plant location rather than at a water service entrance.

K. IDEM Rule 327 IAC 8-10: Rule 327 IAC 8-10 or the most recently promulgated rule.

L. Pollutant: A foreign substance, that if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably effect such water for domestic use.

MARION MUNICIPAL WATER UTILITY
Marion, Indiana

SCHEDULE OF RATES AND CHARGES

I. Rates Approved in Cause No. 42720, Order dated March 30, 2005

(a) Metered Rates Per Month

For use of and service rendered in the service area by the waterworks system of the Marion Municipal Water Utility based on the use of water supplied by said waterworks system:

Consumption Per Month			Rate Per 100 Cubic Feet
First	133	cubic feet	$ 4.02
Next	534	cubic feet	3.48
Next	9,333	cubic feet	1.98
Over	10,000	cubic feet	1.32

(b) Minimum Charge Per Month

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Meter Size	Monthly Minimum Rate
5/8 inch meter	$ 11.22
3/4 inch meter	18.26
1 inch meter	32.09
1 1/2 inch meter	49.06
2 inch meter	84.17
3 inch meter	170.56
4 inch meter	340.36
6 inch meter	510.11
8 inch meter	679.90

APPROVED
PER CONFERENCE MINUTES
JUN 15 2005
INDIANA UTILITY
REGULATORY COMMISSION

(c) Fire Protection

Type of Service	Rate per Unit per Annum
Private hydrant – per hydrant	$ 419.01
Sprinkler heads – per head	.44

Approved by the Indiana Utility Regulatory Commission
Cause No. 42720, Order dated March 30, 2005
Issued By: Bill McElhaney, Utility Director
City of Marion Utilities
1540 North Washington Street
Marion, Indiana 46953

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APR 8 2005
INDIANA UTILITY REGULATORY COMMISSION
GAS/WATER/SEWER DIVISION

MARION MUNICIPAL WATER UTILITY
Marion, Indiana

SCHEDULE OF RATES AND CHARGES

(d) Public Fire Protection Charges Per Month Per Customer Connection
Rates Approved by Commission of _____.

5/8	inch connection	$ 3.06
3/4	inch connection	3.06
1	inch connection	7.83
1 1/2	inch connection	17.63
2	inch connection	31.33
3	inch connection	70.50
4	inch connection	125.34
6	inch connection	282.01
8	inch connection	501.35

II. Rates Approved August 5, 1992 in Cause No. 39422
Schedule of Non-Recurring Charges

Reconnect charges	Rates
During working hours	$ 10.00
After hours	20.00
Weekends	35.00
Pool Filling Labor Charges	
Hourly rate	$ 8.00
Repeat calls to same residence for off-repair (3 calls)	$ 10.00

APPROVED
PER CONFERENCE MINUTES
JUN 15 2005
INDIANA UTILITY
REGULATORY COMMISSION

Approved by the Indiana Utility Regulatory Commission
Cause No. 42720, Order dated March 30, 2005
Issued By: Bill McElhaney, Utility Director
City of Marion Utilities
1540 North Washington Street
Marion, Indiana 46953

RECEIVED
APR 8 2005
INDIANA UTILITY REGULATORY COMMISSION
GAS/WATER/SEWER DIVISION

General
ORDINANCE NO. 40-2004

AN ORDINANCE TO CHANGE THE METHOD OF RECOVERING THE COSTS OF PROVIDING WATER FOR PUBLIC FIRE PROTECTION PURPOSES

WHEREAS, the City of Marion (the "City") owns and operates a municipally owned water utility for purposes of providing water utility service to the public in and around the City; and

WHEREAS, the City's municipally owned utility provides water for public fire protection purposes, the costs of which are currently recovered through directly billing the City pursuant to rate schedules approved by the IURC; and

WHEREAS, Ind. Code § 8-1-2-103(d) and (f) authorize a change in the way such costs are to be recovered upon passage of an ordinance by the City; and

WHEREAS, Ind. Code § 8-1-2-103(d) and (f) provide that such a change shall also be reflected in the rates of certain customers located outside the municipal limits of the City and within 1,000 feet of a fire hydrant; and

WHEREAS, this Council desires that the effective date of the change authorized herein shall coincide with the City's pending proposal to increase water rates and charges, which is currently pending before the Indiana Utility Regulatory Commission in Cause No. 42720.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana, as follows:

1. Pursuant to Ind. Code § 8-1-2-103(d) and (f), the costs for the production, storage, transmission, sale, delivery, and furnishing of water for public fire protection purposes ("public fire costs") shall be included in the basic rates and charges of all customers of the City's water utility in and adjacent to the City in the manner and to the extent permitted by such statute.

2. Effective upon the date of this change in the manner of recovering public fire costs, the City's municipally owned utility shall cease directly billing the City for public fire costs (other than charges for the construction cost for new hydrants installed on and after the date of the change).

3. Public fire protection costs shall also be reflected in the rates of customers located in areas adjacent to the City and within 1,000 feet of a fire hydrant.

4. Notwithstanding this change in the recovery of public fire costs, the construction cost of any fire hydrants installed at the request of the City (or other adjacent governmental unit) shall continue to be paid for by or on behalf of the City (or other governmental unit).

5. The change in method of recovering public fire costs described in Ind. Code § 8-1-2-103(d) and (f) shall be effective upon the first day of the first month following the effective date of the new schedule of rates for which approval has been sought in Cause No. 42720.

PASSED by the Common Council of the City of Marion, Indiana, this 21 day of Dec., 2004.

Presiding Officer, Common Council of the City of Marion, Indiana

ATTEST:

Clerk

Presented by me to the Mayor of the City of Marion, Indiana this 22 day of Dec. 2004, at 8:00 A.M.

Clerk

Signed and approved by me, Mayor of the City of Marion, Indiana, this 22nd day of December 2004, at 12:50 P.M.

Mayor

Prepared by: Nicholas K. Kile
Barnes & Thornburg
11 South Meridian Street
Indianapolis, Indiana 46204

INDS01 NKK 709097v1

MARION MUNICIPAL WATER UTILITY
Marion, Indiana

SCHEDULE OF RATES AND CHARGES

EFFECTIVE

MAR 3 0 2005

GAS/WATER/SEWER DIVISION
INDIANA UTILITY REGULATORY COMMISSION

I. Rates Approved in Cause No. 42720, Order dated March 30, 2005

(a) Metered Rates Per Month

For use of and service rendered in the service area by the waterworks system of the Marion Municipal Water Utility based on the use of water supplied by said waterworks system:

Consumption Per Month			Rate Per 100 Cubic Feet
First	133	cubic feet	$ 4.02
Next	534	cubic feet	3.48
Next	9,333	cubic feet	1.98
Over	10,000	cubic feet	1.32

(b) Minimum Charge Per Month

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Meter Size	Monthly Minimum Rate
5/8 inch meter	$ 11.22
3/4 inch meter	18.26
1 inch meter	32.09
1 1/2 inch meter	49.06
2 inch meter	84.17
3 inch meter	170.56
4 inch meter	340.36
6 inch meter	510.11
8 inch meter	679.90

ISSUED PURSUANT TO ORDER NUMBER

4272

INDIANA UTILITY REGULATORY COMMISSION

(c) Fire Protection – Per Annum

Type of Service	Rate per Unit per Annum
Public hydrant – per hydrant	$ 419.01
Private hydrant – per hydrant	419.01
Sprinkler heads – per head	.44

Approved by the Indiana Utility Regulatory Commission
Cause No. 42720, Order dated March 30, 2005
Issued By: Bill McElhaney, Utility Director
City of Marion Utilities
1540 North Washington Street
Marion, Indiana 46953

RECEIVED

APR 6 2005

INDIANA UTILITY REGULATORY COMMISSION

MARION MUNICIPAL WATER UTILITY
Marion, Indiana

SCHEDULE OF RATES AND CHARGES

EFFECTIVE

MAR 3 0 2005

GAS/WATER/SEWER DIVISION
INDIANA UTILITY REGULATORY COMMISSION

II. Rates Approved August 5, 1992 in Cause No. 39422
Schedule of Non-Recurring Charges

Reconnect charges	Rates
During working hours	$ 10.00
After hours	20.00
Weekends	35.00
Pool Filling Labor Charges	
Hourly rate	$ 8.00
Repeat calls to same residence for off-repair (3 calls)	$ 10.00

ISSUED PURSUANT TO
ORDER NUMBER

4272

INDIANA UTILITY
REGULATORY COMMISSION

Approved by the Indiana Utility Regulatory Commission
Cause No. 42720, Order dated March 30, 2005
Issued By: Bill McElhaney, Utility Director
City of Marion Utilities
1540 North Washington Street
Marion, Indiana 46953

RECEIVED

APR 6 2005

INDIANA UTILITY REGULATORY COMMISSION

Option #2

GENERAL ORDINANCE NO. 19 -2004
AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE USE OF WATER SUPPLIED BY THE WATER WORKS SYSTEM OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

WHEREAS, the Marion Utility Service Board and the Common Council of the City of Marion, Indiana, have determined that the existing rates and charges for the use of water supplied by the waterworks of said City to properly operate its waterworks plant, provide for depreciation, maintenance, bond and interest charges, provide a return on utility plant and to finance needed extensions and additions to the waterworks system are inadequate and that the existing rates and charges should therefore be increased; and

WHEREAS, it presently appears that it is necessary that the present rate schedule of the Water Department be increased in order to charge its customers reasonable and just rates and charges for services as defined by IC 8-1.5-3-8(c); and

WHEREAS, it is necessary that the Water Department receive a reasonable rate of return on its utility plant in service pursuant to IC 8-1.5-3-8(e);

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana;

SECTION I

There shall be and are hereby established for use of water supplied by the waterworks system of the City of Marion, Indiana, the following rates and charges:

(a)

Metered Rates Per Month		Rate Per 100 Cu. Ft.
First	133 Cu. Ft.	$4.55
Next	534 Cu. Ft.	$3.95
Next	9,333 Cu. Ft.	$2.25
Over	10,000 Cu. Ft.	$1.50

(b) Minimum Charge Per Month

Each user shall pay a minimum charge in accordance with the following application size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Size of Meter	Per Month (Minimum)
5/8 Inch Meter	$12.73
3/4 Inch Meter	$20.70
1 Inch Meter	$36.39
1 ½ Inch Meter	$55.63
2 Inch Meter	$95.45
3 Inch Meter	$193.41
4 Inch Meter	$385.97
6 Inch Meter	$578.47
8 Inch Meter	$771.00

(c)

Fire Protection – Per Annum	Rates
Public Hydrant – per hydrant	$ 475.16
Private Hydrant – per hydrant	$ 475.16
Sprinkler Heads – per head	$ .49

(d)

Non-Recurring Charges	Rates

i. Reconnect Charges

During Working Hours	$ 10.00
After Hours	$ 20.00
Weekends	$ 35.00

ii. Pool Filling Labor Charges

Hourly Rate	$ 8.00

iii. Repeat Calls to Same Residence For Off-Repair (3 calls) $ 10.00

iv. Deposits

	Approved by MUSB 8/20/92
5/8 & 3/4 Inch Meters	$ 60.00
1 & 1 ½ Inch Meters	$ 100.00
2 Inch Meters	$ 200.00
3 Inch Meters	$ 350.00
4 Inch Meters	$ 650.00
6 Inch Meters	$1,000.00

SECTION II

All ordinances and parts of ordinances in conflict herewith are herby repealed; provided, however, that the existing schedule of water rates and charges shall remain in full force and effect until the schedule of rates and charges fixed by this ordinance shall be approved and ordered into effect by the Indiana Utility Regulatory Commission.

SECTION III

This ordinance shall be in full force and effect from and after its passage, approval and ordering into effect of the rates and charges herein set out by the Indiana Utility Regulatory Commission.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 17th day of August, 2004.

Presiding Officer

ATTEST:

Kathleen Kiley by Carolyn Bryant First Deputy
City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 19th day of August, 2004.

Kathleen Kiley by Carolyn Bryant First Deputy
City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 20 day of August, 2004.

Mayor, City of Marion, Indiana

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES AND CHARGES

APPROVED
PER CONFERENCE MINUTES
MAY 11 1994
INDIANA UTILITY
REGULATORY COMMISSION

I. Rates Approved August 5, 1992 in Cause No. 39422

(a) Metered Rates Per Month

For use of and service rendered in the service area by the waterworks system of the Marion Municipal Water Utility based on the use of water supplied by said waterworks system:

Consumption Per Month			Rate Per 100 Cubic Feet
First	133	cubic feet	$2.49/CCF
Next	534	cubic feet	2.16/CCF
Next	9,333	cubic feet	1.23/CCF
Over	10,000	cubic feet	.82/CCF

(b) Minimum Charge Per Month

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Meter Size	Monthly Minimum Rate
5/8 inch meter	$ 6.96
3/4 inch meter	11.32
1 inch meter	19.90
1 1/2 inch meter	30.42
2 inch meter	52.19
3 inch meter	105.76
4 inch meter	211.05
6 inch meter	316.31
8 inch meter	421.59

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MAR 2 1 1994
INDIANA UTILITY REGULATORY COMMISSION
ENGINEERING DIVISION

(c) Fire Protection - Per Annum

Type of Service	Rate per Unit per Annum
Public hydrant - per hydrant	$ 259.82
Private hydrant - per hydrant	259.82
Sprinkler heads - per head	.27

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES AND CHARGES

APPROVED
PER CONFERENCE MINUTES
MAY 11 1994
INDIANA UTILITY
REGULATORY COMMISSION

II. Schedule of Non-Recurring Charges

Connection Charges

5/8" Water Meter	$156.00
All Others - At cost of materials, labor and overhead, but not less than the cost for a 5/8" water meter.	

Reconnect Charges	Rates
During working hours	$10.00
After hours	20.00
Weekends	35.00

Pool Filling Labor Charges

Hourly rate	$ 8.00

Repeat calls to same residence for off-repair (3 calls)	$10.00

RECEIVED
APR 06 1994
INDIANA UTILITY REGULATORY COMMISSION
ENGINEERING DIVISION

Read 16 May 94

GENERAL ORDINANCE NO. 31 -1993

AN ORDINANCE AMENDING THE MARION CITY CODE PERTAINING TO WATER MAIN CONNECTION FEES CHARGED TO WATER UTILITY PATRONS

WHEREAS, the Marion Utility Service Board has recommended to the Common Council of the City of Marion a change in the charge for water main connections; and

WHEREAS, the Board and Council have determined that the proposed change in the charge is reasonable and just;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I.

Section 36-9-2-14(z) of the Marion City Code is hereby amended in its entirety to read as follows:

(z) Connection Fee

If an applicant requests water service and that service is to be connected to a water main which has not been financed by a refund agreement or by the abutting property owners or any other individual or group of individuals, that applicant shall pay to the Utility a connection charge of One Hundred Fifty-six Dollars ($156.00).

SECTION II.

All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that the existing charge shall remain in full force and effect until the charge fixed by this ordinance shall be approved and ordered into effect by the Indiana Utility Regulatory Commission.

SECTION III.

This ordinance shall be in full force and effect from and after its passage, approval and ordering into effect of the charge herein set out by the Indiana Utility Regulatory Commission.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 21st day of December, 1993.

Bryce Cousin
Presiding Officer

ATTEST:

Kathleen Riley
City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 22 day of Dec., 1993.

Kathleen Riley
City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 22 day of Dec., 1993.

Mayor, City of Marion, Indiana

RECEIVED
AUG 07 1992
INDIANA UTILITY REGULATORY COMMISSION
ENGINEERING DIVISION

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES AND CHARGES

ISSUED PURSUANT TO
ORDER NUMBER
39422
DATE AUG 07 1992
INDIANA UTILITY REGULATORY COMMISSION

I. Rates Approved August 5, 1992 in Cause No. 39422

(a) Metered Rates Per Month

For use of and service rendered in the service area by the waterworks system of the Marion Municipal Water Utility based on the use of water supplied by said waterworks system:

Consumption Per Month			Rate Per 100 Cubic Feet
First	133	cubic feet	$2.49/CCF
Next	534	cubic feet	$2.16/CCF
Next	9,333	cubic feet	$1.23/CCF
Over	10,000	cubic feet	$ .82/CCF

(b) Minimum Charge Per Month

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Meter Size	Monthly Minimum Rate
5/8 inch meter	$ 6.96
3/4 inch meter	$ 11.32
1 inch meter	$ 19.90
1 1/2 inch meter	$ 30.42
2 inch meter	$ 52.19
3 inch meter	$ 105.76
4 inch meter	$ 211.05
6 inch meter	$ 316.31
8 inch meter	$ 421.59

(c) Fire Protection - Per Annum

Type of Service	Rate per Unit per Annum
Public hydrant - per hydrant	$ 259.82
Private hydrant - per hydrant	$ 259.82
Sprinkler heads - per head	$ .27

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES & CHARGES

ISSUED PURSUANT TO
ORDER NUMBER
39422
DATE AUG 07 1992
INDIANA UTILITY REGULATORY COMMISSION

II. Rates Approved August 5, 1992 in Cause No. 39422
Schedule of Non-Recurring Charges

Reconnect charges	Rates
During working hours	$10.00
After hours	$20.00
Weekends	$35.00
Pool Filling Labor Charges	
Hourly rate	$ 8.00
Repeat calls to same residence for off-repair (3 calls)	$10.00

General Ord # 28-1992

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE USE OF WATER SUPPLIED BY THE WATERWORKS SYSTEM OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

WHEREAS, the Marion Utility Service Board and the Common Council of the City of Marion, Indiana, have determined that the existing rates and charges for the use of water supplied by the waterworks of said City to properly operate its waterworks plant, provide for depreciation, maintenance, bond and interest charges, provide a return on utility plant and to finance needed extensions and additions to the waterworks system are inadequate and that the existing rates and charges should therefore be increased; and

WHEREAS, it presently appears that it is necessary that the present rate schedules of the Water Department be increased in order to charge its customers reasonable and just rates and charges for services as defined by IC 8-1.5-3-8(c); and

WHEREAS, it is necessary that the Water Department receive a reasonable rate of return on its utility plant in service pursuant to IC 8-1.5-3-8(e);

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana;

SECTION I

There shall be and are hereby established for use of water supplied by the waterworks system of the City of Marion, Indiana, the following rates and charges:

(a) Metered Rates Per Month

	Rate Per 100 Cu. Ft.
First 133 Cu. Ft.	$2.49
Next 534 Cu. Ft.	2.16
Next 9,333 Cu. Ft.	1.23
Over 10,000 Cu. Ft.	.82

(b) Minimum Charge Per Month

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Size of Meter	Per Month (Minimum)
5/8 Inch Meter	$6.96
3/4 Inch Meter	11.32
1 Inch Meter	19.90
1 1/2 Inch Meter	30.42
2 Inch Meter	52.19
3 Inch Meter	105.76
4 Inch Meter	211.05
6 Inch Meter	316.31
8 Inch Meter	421.59

(c) Fire Protection - Per Annum — Rates

Public Hydrant - per hydrant	$259.82
Private Hydrant - per hydrant	259.82
Sprinkler Heads - per head	.27

(d) Non-Recurring Charges — Rates

i. Reconnect Charges

During Working Hours	$10.00
After Hours	20.00
Weekends	35.00

ii. Pool Filling Labor Charges

Hourly Rate	$8.00

iii. Repeat Calls to Same Residence For Off-repair (3 calls) — $10.00

iv. Deposits — Approved by MUSB 8/20/92

5/8 & 3/4 Inch Meters	$60.00
1 & 1 1/2 Inch Meters	100.00
2 Inch Meters	200.00
3 Inch Meters	350.00
4 Inch Meters	650.00
6 Inch Meters	1,000.00

SECTION II

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION III

This ordinance shall be in full force and effect from and after its passage, and approval and signing by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 1 day of Sept, 1992.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 2 day of Sept, 1992.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 2nd day of Sept, 1992.

Mayor, City of Marion, Indiana

General Ord. #15-1992

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE USE OF WATER SUPPLIED BY THE WATER WORKS SYSTEM OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

WHEREAS, the Marion Utility Service Board and the Common Council of the City of Marion, Indiana, have determined that the existing rates and charges for the use of water supplied by the Water Works of said City to properly operate its Water Works plant, provide for depreciation, maintenance, bond and interest charges, provide a return on utility plant and to finance needed extensions and additions to the Water Works system are inadequate and that the existing rates and charges should therefore be increased.

WHEREAS, it presently appears that it is necessary that the present rate schedules of the Water Department be increased in order to charge its customers reasonable and just rates and charges for services as defined by I.C. 8-1.5-3-8(c); and, as shown on Exhibit "A" attached; and,

WHEREAS, it is necessary that the Water Department receive a reasonable rate of return on its utility plant in service pursuant to I.C. 8-1.5-3-8(e);

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana;

SECTION I

There shall be and are hereby established for use of water supplied by the Water Works system of the City of Marion, Indiana, the following rates and charges:

(a) Metered Rates Per Month	Rate Per 100 Cu. Ft.
First 133 Cu. Ft.	$ 2.53
Next 534 Cu. Ft.	2.19
Next 9,333 Cu. Ft.	1.25
Over 10,000 Cu. Ft.	.83

(b) Size of Meter	Per Month (Minimum)
5/8 Inch Meter	$ 7.06
3/4 Inch Meter	11.48
1 Inch Meter	20.19
1 1/2 Inch Meter	30.85
2 Inch Meter	52.94

3	Inch Meter	107.27
4	Inch Meter	214.07
6	Inch Meter	320.84
8	Inch Meter	427.63

(c) Fire Protection - Per Annum — Rate

Public Hydrant - per hydrant	$ 263.54
Private Hydrant - per hydrant	263.54
Sprinkler Heads - per hydrant	.27

(d) Non-Recurring Charges — Rates

i. Reconnect Charges

During Working Hours	$ 12.40
After Hours	24.80
Weekends	43.40

ii. Pool Filling Labor Charges

Hourly Rate	$ 9.92

iii. Repeat Calls to Same Residence For Off-Repair (3 Calls) $ 12.40

iv. Deposits

5/8 & 3/4 Inch Meters	- Renters	$ 59.52
	- Owners	$ 59.52
1 & 1 1/2 Inch Meters	- Renters	$ 94.24
	- Owners	$ 94.24
2 Inch Meters	- Renters	$ 171.12
	- Owners	$ 171.12
3 Inch Meters	- Renters	$ 333.56
	- Owners	$ 333.56
4 Inch Meters	- Renters	$ 657.20
	- Owners	$ 657.20
6 Inch Meters	- Renters	$ 982.08
	- Owners	$ 982.08

MUSB 8/20/92

SECTION II

All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that the existing schedule of water rates and charges shall remain in full force and effect until the schedule of rates and charges fixed by

this ordinance shall be approved and ordered into effect by the Indiana Utility Regulatory Commission.

SECTION III

This ordinance shall be in full force and effect from and after its passage, approval and ordering into effect of the rates and charges herein set out by the Indiana Utility Regulatory Commission.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 21 day of April, 1992.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 21 day of Apr., 1992.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 23rd day of April, 1992.

Mayor, City of Marion, Indiana

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES AND CHARGES

I. Rates Approved December 9 , 1987 in Cause No. 38339 - Monthly

(a) Metered Rates Per Month

For use of and service rendered in the service area by the waterworks system of the Marion Municipal Water Utility based on the use of water supplied by said waterworks system:

Consumption Per Month	Rate Per 100 Cubic Feet
First 133 cubic feet	2.04/CCF 2.71
Next 534 cubic feet	1.77/CCF 9.45
Next 9,333 cubic feet	1.005/CCF
Over 10,000 cubic feet	0.671/CCF

(b) Minimum Charge Per Month

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Meter Size	Monthly Minimum Rate
5/8 inch meter	$ 5.69
3/4 inch meter	9.26
inch meter	16.28
1/2 inch meter	24.88
2 inch meter	42.69
3 inch meter	86.51
4 inch meter	172.64
6 inch meter	258.74
8 inch meter	344.86

ISSUED PURSUANT TO ORDER NUMBER 38339 DATE DEC 22 1987 INDIANA UTILITY REGULATORY COMMISSION

RECEIVED DEC 10 1987 INDIANA UTILITY REGULATORY COMMISSION ENGINEERING DIVISION

(c) Fire Protection - Per Annum

Type of Service	Rate per Unit per Annum
Public hydrant - per hydrant	$ 212.53
Private hydrant - per hydrant	212.53
Sprinkler heads - per head	.22

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES AND CHARGES

II. Rates Approved December 9, 1987 in Cause No. 38339 - Quarterly

(a) Metered Rates Per Quarter

For use and service rendered in the service area by the waterworks system of the Marion Municipal Water Utility based on the use of water supplied by said waterworks system:

Consumption Per Quarter	Rate Per 100 Cubic Feet
First 400 cubic feet	2.04/CCF
Next 1,600 cubic feet	1.77/CCF
Next 28,000 cubic feet	1.005/CCF
Over 30,000 cubic feet	0.671/CCF

(b) Minimum Charge Per Quarter

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Meter Size	Quarterly Minimum Rate
5/8 inch meter	$ 17.08
3/4 inch meter	23.14
inch meter	48.84
1/2 inch meter	74.65
2 inch meter	128.07
3 inch meter	259.53
4 inch meter	517.92
6 inch meter	776.23
8 inch meter	1,034.59

ISSUED PURSUANT TO ORDER NUMBER
38339
DEC 22 1987
DATE
INDIANA UTILITY REGULATORY COMMISSION

RECEIVED
DEC 10 1987
INDIANA UTILITY REGULATORY COMMISSION
ENGINEERING DIVISION

(c) Fire Protection - Per Annum

Type of Service	Rate per Unit per Annum
Public hydrant - per hydrant	$ 212.53
Private hydrant - per hydrant	212.53
Sprinkler heads - per head	.22

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES AND CHARGES

III. Rates Approved December 9, 1987 in Cause No. 38339 - Schedule of Non-Recurring Charges

Reconnect charges	Rate
During working hours	$ 10.00
After hours	20.00
Weekends	35.00
Pool Filling Labor Charges	
Hourly rate	$ 8.00
Repeat calls to same residence for off-repair (3 calls)	$ 10.00

ISSUED PURSUANT TO ORDER NUMBER
38339
DEC 22 1987
DATE
INDIANA UTILITY REGULATORY COMMISSION

RECEIVED
DEC 10 1987
INDIANA UTILITY REGULATORY COMMISSION
ENGINEERING DIVISION

GENERAL ORDINANCE NO. 24 -1987

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE USE OF WATER SUPPLIED BY THE WATER WORKS SYSTEM OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

WHEREAS, the Marion Utility Service Board and the Common Council of the City of Marion, Indiana, have determined that the existing rates and charges for the use of water supplied by the Water Works of said City to properly operate its Water Works plant, provide for depreciation, maintenance, bond and interest charges, provide a return on utility plant and to finance needed extensions and additions to the Water Works system are inadequate and that the existing rates and charges should therefore be increased.

WHEREAS, it presently appears that it is necessary that the present rate schedules of the Water Department be increased in order to charge its customers reasonable and just rates and charges for services as defined by I.C. 8-1.5-3-8(c); and, as shown on Exhibit "A" attached; and,

WHEREAS, it is necessary that the Water Department receive a reasonable rate of return on its utility plant in service pursuant to I.C. 8-1.5-3-8(e);

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana;

SECTION I

There shall be and are hereby established for use of water supplied by the Water Works system of the City of Marion, Indiana, the following rates and charges:

(a) Metered Rates Per Quarter		Rate Per 100 Cu. Ft.
First	400 Cu. Ft.	$ 2.066
Next	1,600 Cu. Ft.	1.790
Next	28,000 Cu. Ft.	1.017
Over	30,000 Cu. Ft.	0.679

(b) Metered Rates Per Month		Rate Per 100 Cu. Ft.
First	133 Cu. Ft.	$ 2.066
Next	534 Cu. Ft.	1.790
Next	9,333 Cu. Ft.	1.017
Over	10,000 Cu. Ft.	0.679

(c) Size of Meter	Per Quarter (Minimum)
5/8 Inch Meter	$ 17.29
3/4 Inch Meter	23.41
1 Inch Meter	49.42
1½ Inch Meter	75.53
2 Inch Meter	129.58
3 Inch Meter	262.58
4 Inch Meter	524.01
6 Inch Meter	785.35
8 Inch Meter	1,046.75

(d) Size of Meter	Per Month (Minimum)
5/8 Inch Meter	$ 5.76
3/4 Inch Meter	9.37
1 Inch Meter	16.47

1½	Inch Meter	$ 25.18
2	Inch Meter	43.19
3	Inch Meter	87.53
4	Inch Meter	174.67
6	Inch Meter	261.78
8	Inch Meter	348.91

(e) Fire Protection - Per Annum

	Rate
Public Hydrant - per hydrant	$215.00
Private Hydrant - per hydrant	215.00
Sprinkler heads - per hydrant	.22

(f) Non-Recurring Charges

	Rates
i. Reconnect Charges	
During Working Hours	$14.00
After Hours	28.00
Weekends	48.00
ii. Pool Filling Labor Charges	
Hourly Rate	$11.00
iii. Repeat Calls to Same Residence for Off-Repair (3 Calls)	$14.00
iv. Deposits	
5/8 & 3/4 Inch Meters - Renters	$48.00
Owners	$48.00
1 & 1½ Inch Meters - Renters	$76.00
Owners	$76.00
2 Inch Meters - Renters	$138.00
Owners	$138.00
3 Inch Meters - Renters	$269.00
Owners	$269.00
4 Inch Meters - Renters	$530.00
Owners	$530.00
6 Inch Meters - Renters	$792.00
Owners	$792.00

SECTION II

All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that the existing schedule of water rates and charges shall remain in full force and effect until the schedule of rates and charges fixed by this ordinance shall be approved and ordered into effect by the Indiana Utility Regulatory Commission.

SECTION III

This ordinance shall be in full force and effect from and after its passage, approval and ordering into effect of the rates and charges herein set out by the Indiana Utility Regulatory Commission.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 6th day of October, 1987.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 7th day of October, 1987.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 7th day of Oct., 1987.

Mayor, City of Marion, Indiana

EXHIBIT "A"

MUNICIPAL WATER UTILITY
MARION, INDIANA
DETAIL OF PRO-FORMA REVENUE REQUIREMENTS

Pro-Forma Elements	Amount
Operation and Maintenance	$1,463,983.00
Taxes - Other than Income	82,440.00
Payment in lieu of Property Tax	148,133.00
Debt Service (3 - year average)	1,194,304.00
Extensions & Replacements	223,167.00
Subtotal	$3,112,027.00
Return on Investment	100,000.00
Pro-Forma Revenue Requirement Total	$3,212,027.00
Percentage Increase	37.73%

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES AND CHARGES

I. Rates Approved June 4, 1986 in Cause No. 37903 - Monthly

(a) Metered Rates per Month

For use of and service rendered in the service area by the waterworks system of the Marion Municipal Water Utility based on the use of water supplied by said waterworks system:

Consumption Per Month	Rate Per 100 Cubic Feet
First 133 cubic feet	$1.50/CCF
Next 534 cubic feet	1.30/CCF
Next 9,333 cubic feet	.738/CCF
Over 10,000 cubic feet	.493/CCF

(b) Minimum Charge per Month

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Meter Size	Monthly Minimum Rate
5/8 inch meter	$ 4.18
3/4 inch meter	6.80
1 inch meter	11.96
1 1/2 inch meter	18.28
2 inch meter	31.36
3 inch meter	63.55
4 inch meter	126.82
6 inch meter	190.07
8 inch meter	253.33

RECEIVED
JUN 11 1986
PUBLIC SERVICE COMMISSION
OF INDIANA
ENGINEERING DEPT.

(c) Fire Protection - Per Annum

Type of Service	Rate per Unit per Annum
Public hydrant - per hydrant	$156.12
Private hydrant - per hydrant	156.12
Sprinkler heads - per head	.15

ISSUED PURSUANT TO
ORDER NUMBER
37903
DATE JUN 24 1986

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES AND CHARGES

II. Rates Approved June 4, 1986 in Cause No. 37903 - Quarterly

(a) Metered Rates Per Quarter

For use and service rendered in the service area by the waterworks system of the Marion Municipal Water Utility based on the use of water supplied by said waterworks system:

Consumption Per Quarter	Rate Per 100 Cubic Feet
First 400 cubic feet	$1.50/CCF
Next 1,600 cubic feet	1.30/CCF
Next 28,000 cubic feet	.738/CCF
Over 30,000 cubic feet	.493/CCF

(b) Minimum Charge Per Quarter

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates at the above level of charges.

Meter Size	Quarterly Minimum Rate
5/8 inch meter	$12.55
3/4 inch meter	17.00
1 inch meter	35.88
1 1/2 inch meter	54.84
2 inch meter	94.08
3 inch meter	190.65
4 inch meter	380.46
6 inch meter	570.21
8 inch meter	760.00

RECEIVED
JUN 11 1986
PUBLIC SERVICE COMMISSION
OF INDIANA
ENGINEERING DEPT.

(c) Fire Protection - Per Annum

Type of Service	Rate per Unit per Annum
Public hydrant - per hydrant	$156.12
Private hydrant - per hydrant	156.12
Sprinkler heads - per head	.16

ISSUED PURSUANT TO
ORDER NUMBER
37903
DATE JUN 24 1986

MARION MUNICIPAL WATER UTILITY
MARION, INDIANA
SCHEDULE OF RATES AND CHARGES

III. Rates Approved June 4, 1986 in Cause No. 37903 - Schedule of Non-Recurring Charges

Reconnect charges	Rate
During working hours	$ 10.00
After hours	20.00
Weekends	35.00

Pool Filling Labor Charges	
Hourly rate	$ 8.00

Repeat calls to same residence for off-repair (3 calls)	$ 10.00

Deposits		
5/8 & 3/4 inch meters	- Renters	$ 35.00
	- Owners	35.00
1 & 1 1/2 inch meters	- Renters	55.00
	- Owners	55.00
2 inch meters	- Renters	100.00
	- Owners	100.00
3 inch meters	- Renters	195.00
	- Owners	195.00
4 inch meters	- Renters	385.00
	- Owners	385.00
6 inch meters	- Renters	575.00
	- Owners	575.00

RECEIVED
JUN 11 1986
PUBLIC SERVICE COMMISSION
OF INDIANA
ENGINEERING DEPT.

ISSUED PURSUANT TO
ORDER NUMBER
37903
DATE JUN 24 1986

GENERAL ORDINANCE NO. 31 -1985

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE USE OF WATER SUPPLIED BY THE WATER WORKS SYSTEM OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

WHEREAS, the Marion Utility Service Board and the Common Council of the City of Marion, Indiana, have determined that the existing rates and charges for the use of water supplied by the Water Works of said City to properly operate its Water Works plant, provide for depreciation, maintenance, bond and interest charges and to finance needed extensions and additions to the Water Works system and that the existing rates and charges should therefore be increased.

WHEREAS, it presently appears that it is necessary that the present rate schedules of the Water Department be increased in order to charge its customers reasonable and just rates and charges for services as defined by I.C. 8-1.5-3-8 (c) and I.C. 8-1-2-96; and, as shown on Exhibit "A" attached; and,

WHEREAS, it is necessary that the Water Department receive a reasonable rate of return on its utility plant in service pursuant to I.C. 8-1.5-3-8 (e):

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

There shall be and are hereby established for use of water supplied by the Water Works system of the City of Marion, Indiana, the following rates and charges:

(a) Metered Rates Per Quarter

		Rate Per 100 Cu.Ft.
First	400 Cu. Ft.	$ 1.50
Next	1,600 Cu. Ft.	1.30
Next	28,000 Cu. Ft.	.738
Over	30,000 Cu. Ft.	.493

(b) Metered Rates Per Month

		Rate Per 100 Cu.Ft.
First	133 Cu. Ft.	$ 1.50
Next	534 Cu. Ft.	1.30
Next	9,333 Cu. Ft.	.738
Over	10,000 Cu. Ft.	.493

(c)

Size of Meter	Per Quarter (Minimum)
5/8 Inch Meter	$ 12.55
3/4 Inch Meter	17.00
1 Inch Meter	35.88
1½ Inch Meter	54.84
2 Inch Meter	94.08
3 Inch Meter	190.65
4 Inch Meter	380.46
6 Inch Meter	570.21
8 Inch Meter	760.00

(d)

Size of Meter	Per Month (Minimum)
5/8 Inch Meter	$ 4.18
3/4 Inch Meter	6.80
1 Inch Meter	11.96
1½ Inch Meter	18.28
2 Inch Meter	31.36
3 Inch Meter	63.55
4 Inch Meter	126.82
6 Inch Meter	190.07
8 Inch Meter	253.33

(e) Fire Protection - Per Annum		Rate
Public Hydrant	- per hydrant	$156.12
Private Hydrant	- per hydrant	156.12
Sprinkler heads	- per hydrant	.16

(f) Non-Recurring Charges		Rates
i. Reconnect Charges		
During Working Hours		$10.00
After Hours		20.00
Weekends		35.00
ii. Pool Filling Labor Charges		
Hourly Rate		8.00
iii. Repeat Calls to Same Residence for Off-Repair (3 Calls)		10.00
iv. Deposits		
5/8 & 3/4 Inch Meters	- Renters	35.00
	Owners	35.00
1 & 1½ Inch Meters	- Renters	55.00
	Owners	55.00
2 Inch Meters	- Renters	100.00
	Owners	100.00
3 Inch Meters	- Renters	195.00
	- Owners	195.00
4 Inch Meters	- Renters	385.00
	- Owners	385.00
6 Inch Meters	- Renters	575.00
	Owners	575.00

SECTION II

All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that the existing schedule of water rates and charges shall remain in full force and effect untill the schedule of rates and charges fixed by this ordinance shall be approved and ordered into effect by the Public Service Commission of Indiana.

SECTION III

This ordinance shall be in full force and effect from and after its passage, approval and odering into effect of the rates and charges herein set out by the Public Service Commission of Indiana.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 2 day of December, 1985.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana this 4th day of December, 1985.

Mary Jane Halloway
City Clerk

4th APPROVED by me as Mayor of the City of Marion, Indiana, this day of Dec., 1985.

Jeri Moore
Mayor, City of Marion, Indiana

MARION WATER WORKS

Marion, Indiana

Schedule of Water Rates and Charges
Approved in PSC Cause No. 37050

Metered Rates (per month per 100 cu. ft.)		Proposed Rates
First	267 cubic feet	$ 1.17
Next	400 cubic feet	.95
Next	1,333 cubic feet	.79
Next	1,333 cubic feet	.59
Next	6,667 cubic feet	.46
All Over	10,000 cubic feet	.37

Minimum Rates (charge per month)		
Meter Sizes	Cubic Feet	
5/8 inch	301.3	$ 3.45
3/4 inch	535.0	5.67
1 inch	1,304.5	11.96
1½ inch	2,139.9	18.28
2 inch	4,646.2	31.36
3 inch	12,043.9	63.55
4 inch	29,143.9	126.82
6 inch	46,238.5	190.07
8 inch	63,335.8	253.33

Fire Protection	
Private and Public - per hydrant, per annum	$ 156.12
Sprinkler Heads - per head, per annum	.16

ISSUED PURSUANT TO ORDER NUMBER 37050 JUN 6 1983 DATE PUBLIC SERVICE COMMISSION

RECEIVED JUN 03 1983 PUBLIC SERVICE COMMISSION OF INDIANA ENGINEERING DEPT.

GENERAL ORDINANCE NO. 13-1983

AN ORDINANCE AMENDING GENERAL ORDINANCE NO. 41-1982 TO INCLUDE A QUARTERLY RATE SCHEDULE

WHEREAS, the Utility Service Board and the Common Council of the City of Marion, Indiana, have heretofore found that General Ordinance No. 41-1982 was necessary in order to provide sufficient revenue for the operation of the Water Utility for the City of Marion; and,

WHEREAS, this schedule of charges for quarterly rates was inadvertently left out of General Ordinance 41-1982, so that only monthly rates were shown in that Ordinance; and,

WHEREAS, in order to correct this mistake, an Ordinance Amending Ordinance 41-1982 including a Quarterly Rate Schedule is necessary.

NOW THEREFORE, be it ordained by the Common Council of the City of Marion, Indiana;

Section I: That Section I of General Ordinance 41-1982 be and the same is hereby amended by adding the following sub-divisions:

g. Metered Rates per quarter per 100 cubic feet.

First	800 Cubic Feet	$1.17
Next	1,200 Cubic Feet	.95
Next	4,000 Cubic Feet	.79
Next	4,000 Cubic Feet	.59
Next	20,000 Cubic Feet	.46
Next	30,000 Cubic Feet	.37

h. Minimum Rate charges per quarter:

5/8 inch meter	$ 10.35
3/4 inch meter	17.00
1 inch meter	35.88
1 1/2 inch meter	54.84
2 inch meter	94.08
3 inch meter	190.65
4 inch meter	380.46
6 inch meter	570.21
8 inch meter	760.00
Sprinkler Heads	.16

Section II: All General Ordinances, or sections or sub-divisions thereof, in direct conflict with this General Ordinance are hereby repealed.

Section III: THIS ORDINANCE shall be in full force and effect from and after its passage and approval by the Mayor, and the Public Service Commission, as provided by law.

PASSED AND ADOPTED, by the Common Council of the City of Marion, Indiana this 21 day of June, 1983.

Paul D. Reed
PAUL D. REED, President
Marion Common Council

ATTEST:

Mary Jane Holloway
MARY JANE HOLLOWAY, City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 22nd day of June, 1983.

Mary Jane Holloway
MARY JANE HOLLOWAY, City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 22d day of June, 1983. 1:22 PM

Fred D. Weagley
HONORABLE FRED D. WEAGLEY, Mayor
of the City of Marion, Indiana

APPENDIX A

MUNICIPAL WATER UTILITY

MARION, INDIANA

SCHEDULE OF RATES AND CHARGES

RECEIVED
SEP 7 1977
PUBLIC SERVICE COMMISSION
OF INDIANA
ENGINEERING DEPT.

METERED RATES PER MONTH

RATE PER 100 CU. FT.	RATES
First 267 cu. ft.	$ .82
Next 400 cu. ft.	.66
Next 1,333 cu. ft.	.55
Next 1,333 cu. ft.	.41
Next 6,667 cu. ft.	.32
Over 10,000 cu. ft.	.26

METERED RATES PER QUARTER

RATE PER 100 CU. FT.	
First 800 cu. ft.	.82
Next 1,200 cu. ft.	.66
Next 4,000 cu. ft.	.55
Next 4,000 cu. ft.	.41
Next 20,000 cu. ft.	.32
Over 30,000 cu. ft.	.26

MINIMUM CHARGE PER MONTH

SIZE OF METER	
5/8"	2.40
3/4"	3.94
1"	8.32
1-1/2"	12.72
2"	21.82
3"	44.24
4"	88.24
6"	132.24

MINIMUM CHARGE PER QUARTER

SIZE OF METER	
5/8"	7.20
3/4"	11.82
1"	24.96
1-1/2"	38.16
2"	65.46
3"	132.72
4"	264.72
6"	396.72

ISSUED PURSUANT TO
ORDER NUMBER
34411
DATE SEP 9 1977
PUBLIC SERVICE COMMISSION.

FIRE HYDRANTS

PER HYDRANT - PER ANNUM	
Municipal	108.60
Private	108.60

PRIVATE FIRE PROTECTION

SPRINKLER HEADS - PER HEAD PER ANNUM	.108

GENERAL ORDINANCE NO. 37 -1977 AMENDED

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE USE OF WATER SUPPLIED BY THE WATER WORKS SYSTEM OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

WHEREAS, the Marion Utility Service Board and the Common Council of the City of Marion, Indiana, have determined that the existing rates and charges for the use of water supplied by the Water Works of said City are too low and are insufficient to enable the City to properly operate its Water Works plant, provide for depreciation, maintenance, bond and interest charges and to finance needed extensions and additions to the Water Works system and that the existing rates and charges should therefore be increased.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

There shall be and are hereby established for use of water supplied by the Water Works system of the City of Marion, Indiana, the following rates and charges:

(a) Metered Rates Per Month	Rate Per 100 Cu. Ft.
First 267 cu. ft.	$ .82
Next 400 cu. ft.	.66
Next 1,333 cu. ft.	.55
Next 1,333 cu. ft.	.41
Next 6,067 cu. ft.	.32
Over 10,000 cu. ft.	.26

Metered Rates Per Quarter	
First 800 cu. ft.	.82
Next 1,200 cu. ft.	.66
Next 4,000 cu. ft.	.55
Next 4,000 cu. ft.	.41
Next 20,000 cu. ft.	.32
Over 30,000 cu. ft.	.26

(b) Minimum Charge

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed for which the user will be entitled to the quantity of water set out in the above schedule of rates.

Size of Meter	Per Month	Per Quarter
5/8 inch meter	$ 2.40	$ 7.20
3/4 inch meter	3.94	11.82
1 inch meter	8.32	24.96
1 1/2 inch meter	12.72	38.16
2 inch meter	21.82	65.46
3 inch meter	44.24	132.72
4 inch meter	88.24	264.72
6 inch meter	132.24	396.72

(c) Fire Hydrants

Municipal hydrants - per hydrant - per annum	$108.60
Private hydrants - per hydrant - per annum	108.60

(d) Private Fire Protection

Sprinkler heads - per head - per annum $ .108

(e) Temporary Users

Water furnished to temporary users, such as contractors, curcuses, etc., shall be charged on the basis of the metered rates hereinbefore set forth as estimated and established by the Water Works Superintendent.

(f) Collection and Deferred Payment Charge

All bills for water service not paid within fifteen (15) days from the due date thereof, as stated in such bills, shall be subject to the collection or deferred payment charge of 10% on the first $3.00 and 3% on the excess over $3.00.

(g) Deposits may be required of new users as permitted and ratified by the Public Service Commission of Indiana.

SECTION II

All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided however, that the existing schedule of water rates and charges shall remain in full force and effect until the schedule of rates and charges fixed by this ordinance shall be approved and ordered into effect by the Common Council and ratified by the Public Service Commission of Indiana.

SECTION III

This ordinance shall be in full force and effect from and after its passage, approval and ordering into effect of the rates and charges herein set out by the Public Service Commission of Indiana.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 6TH day of September 1977.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 9TH day of September, 1977.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 9th day of September, 1977.

Mayor, City of Marion, Indiana

General Ordinance No. 25-1976

GENERAL ORDINANCE NO. 25 -1976

AN ORDINANCE AMENDING GENERAL ORDINANCE NO. 1-1976

WHEREAS, on August 3, 1976, the Common Council of the City of Marion, Indiana, passed an ordinance permitting an increase in the rates for the use of water in Marion, Indiana; and,

WHEREAS, two items were inadvertently omitted from General Ordinance No. 1-1976, as passed, which items should have been included.

SECTION I

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana, that General Ordinance No. 1-1976, Section I, 1(b) "Minimum charge--per month" is hereby amended to read as follows:

Size of Meter	Per Month	Per Quarter
5/8 inch meter	$ 2.50	$ 7.50
3/4 inch meter	4.10	12.30
1 inch meter	8.65	25.95
1 1/2 inch meter	13.25	39.25
2 inch meter	22.75	68.25
3 inch meter	46.10	138.30
4 inch meter	91.90	275.70
6 inch meter	137.75	413.25

SECTION II

BE IT FURTHER ORDAINED, that General Ordinance No. 1-1976, is amended by adding a new section (i) as follows:

(i) All charges for service to customers situated outside the corporate limits of the City of Marion having availability for all of the foregoing tariffs shall be one hundred fifty per cent (150%) of the charges computed by application of the foregoing tariffs.

BE IT FURTHER ORDAINED that General Ordinance No. 1-1976 is hereby ratified in all other respects and further, that all other ordinances in conflict with this General Ordinance are hereby repealed.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 7TH day of SEPTEMBER, 1976.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 8TH day of SEPTEMBER, 1976.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 8th day of September, 1976.

Mayor, City of Marion, Indiana

GENERAL ORDINANCE NO. 1 -1976-AMENDED

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE USE OF WATER SUPPLIED BY THE WATER WORKS SYSTEM OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

WHEREAS, the Marion Utility Service Board and the Common Council of the City of Marion, Indiana, have determined that the existing rates and charges for the use of water supplied by the Water Works of said City are too low and are insufficient to enable the City to properly operate its Water Works plant, provide for depreciation, maintenance, bond and interest charges and to finance needed extensions and additions to the Water Works system and that the existing rates and charges should therefore be increased.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana;

SECTION I

There shall be and are hereby established for use of water supplied by the Water Works system of the City of Marion, Indiana, the following rates and charges:

(a) Metered Rates Per Month

		Rate Per 100 Cu. Ft.
First	267 cu. ft.	$ .85
Next	400 cu. ft.	.69
Next	1,333 cu. ft.	.58
Next	1,333 cu. ft.	.43
Next	6,667 cu. ft.	.34
Over	10,000 cu. ft.	.28

Metered Rates Per Quarter

First	800 cu. ft.	.85
Next	1,200 cu. ft.	.69
Next	4,000 cu. ft.	.58
Next	4,000 cu. ft.	.43
Next	20,000 cu. ft.	.34
Over	30,000 cu. ft.	.28

(b) Minimum Charge

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed for which the user will be entitled to the quantity of water set out in the above schedule of rates.

Size of Meter	Per Month	Per Quarter
5/8 inch meter	$ 2.50	$ 7.50
3/4 inch meter	4.10	12.30
1 inch meter	8.65	25.95
1 1/2 inch meter	13.25	39.25
2 inch meter	22.75	68.25
3 inch meter	46.10	138.30
4 inch meter	91.90	275.70

(c) Fire Hydrants

Municipal hydrants - per hydrant - per annum	$113.13
Private hydrants - per hydrant - per annum	$113.13

(d) Private Fire Protection

Sprinkler heads - per head - per annum	$ .1125

(e) Temporary Users

Water furnished to temporary users, such as contractors, circuses, etc., shall be charged on the basis of the metered rates hereinbefore set forth as estimated and established by the Water Works Superintendent.

(f) Collection and Deferred Payment Charge

All bills for water service not paid within fifteen (15) days from the due date thereof, as stated in such bills, shall be subject to the collection or deferred payment charge of 10% on the first $3.00 and 3% on the excess over $3.00.

(g) Deposits may be required of new users as permitted and ratified by the Public Service Commission of Indiana.

SECTION II

All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided however, that the existing schedule of water rates and charges shall remain in full force and effect until the schedule of rates and charges fixed by this ordinance shall be approved and ordered into effect by the Public Service Commission of Indiana.

SECTION III

This ordinance shall be in full force and effect from and after its passage, approval and ordering into effect of the rates and charges herein set out by the Public Service Commission of Indiana.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 3RD day of AUGUST, 1976.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 11TH day of AUGUST, 1976.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 11th day of August, 1976.

Arthur C. Haddon
Mayor, City of Marion, Indiana

CERTIFICATE OF CITY CLERK

STATE OF INDIANA)
) SS:
COUNTY OF GRANT)

I, Verna Hays, the duly elected, qualified and acting City Clerk of the City of Marion, Indiana, hereby certify that attached hereto is a full, true and correct copy of the tariff of rates and charges adopted by the City of Marion for its municipal waterworks, which tariff has heretofore been approved by the Public Service Commission of Indiana by order dated June 1, 1967, in Cause No. 31456.

This tariff cancels concurrently with the filing herewith all prior tariffs.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 19 day of June, 1967.

Verna Hays
City Clerk
City of Marion

(Seal)

Size of Meter	Per Month	Per Quarter
1 inch meter	$ 6.93	$ 20.80
1-1/2 inch meter	10.60	31.80
2 inch meter	18.18	54.55
3 inch meter	36.87	110.60
4 inch meter	73.53	220.60
6 " "	110.20	330.60

(c) Fire Hydrants

Municipal hydrants - per hydrant - per annum $90.50
Private hydrants - per hydrant - per annum $90.50

(d) Private Fire Protection

Sprinkler heads - per head - per annum $.09

(e) Temporary Users

Water furnished to temporary users, such as contractors, circuses, etc., shall be charged on the basis of the metered rates hereinbefore set forth as estimated and established by the Waterworks Superintendent.

(f) Collection and Deferred Payment Charge

All bills for water service not paid within fifteen (15) days from the due date thereof, as stated in such bills, shall be subject to the collection or deferred payment charge of 10% on the first $3.00 and 3% on the excess over $3.00.

Issued Pursuant to Order No. 3156

6 inch meter	Monthly	Quarterly

GENERAL ORDINANCE NO. 8-1954

AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 10-1950, ENTITLED "AN ORDINANCE ESTABLISHING A NEW SCHEDULE OF RATES AND CHARGES FOR THE USE OF AND SERVICE RENDERED BY THE WATER WORKS SYSTEM OF THE CITY OF MARION, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH,".

WHEREAS, certain extensions and additions have been made to the waterworks system of the city for the purpose of improving the quality and quantity of water furnished thereby; and

WHEREAS, the Common Council now finds that the present schedule of rates and charges which were put into effect to properly operate its water system are insufficient to enable the City to operate its waterworks system properly and provide for the required service and that the existing rates and charges should be increased; now therefore,

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I.

That Section 1 and 2 of the above-mentioned Ordinance be amended to read, as follows:

****

Section 1. That the following rates and charges be, and the same are hereby established for the use of and the service rendered by the waterworks system of the City of Marion, within the corporate limits of the City based on the amount of water supplied by said water works system during each quarterly billing period:

First	800 Cubic Feet	$.33 per 100 Cubic Feet
Next	1,200 Cubic Feet	.27 per 100 Cubic Feet
Next	4,000 Cubic Feet	.21 per 100 Cubic Feet
Next	4,000 Cubic Feet	.15 per 100 Cubic Feet
Next	20,000 Cubic Feet	.12 per 100 Cubic Feet
All Over	30,000 Cubic Feet	.10 per 100 Cubic Feet

The minimum charge for any service rendered during any quarterly billing period shall be determined by the size of the meter installed on the premises of the customer and shall be as follows:

5/8 inch	$ 3.75
3/4 inch	5.00
1 inch	10.00
1-1/2 inch	15.00
2 inch	25.00
3 inch	50.00
4 inch	100.00
6 inch	150.00

The charge for stand-by service for fire sprinkling systems shall be at the rate of $.05 per sprinkler-head per year for each customer served, as computed on December 31 of each calendar year.

The amount to be paid by the City of Marion for fire hydrant rental shall be $50.00 per hydrant per year.

Water furnished to temporary users shall be charged for on the basis of the above gallonage rates. The amount of water used by such temporary users may be determined by a meter installed for that purpose, or if no meter be installed, then as estimated by the Water Works Superintendent. The minimum charge for any such temporary use shall be $3.75.

Section 2. For services rendered outside the corporate limits of the City, the foregoing rates shall be increased by fifty per cent (50%).

****

SECTION II.

The foregoing rates and charges are subject to approval by the Public Service Commission of Indiana and shall apply to all water furnished by the City's Waterworks system after the date of the order of said Commission approving said rates and charges, or as otherwise ordered by the Commission. The existing rates and charges shall remain in full force and effect until the rates and charges fixed by this ordinance shall become effective.

SECTION III.

ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH are hereby repealed.

SECTION IV.

This ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and approval by the Public Service Commission of Indiana as required by law.

Passed in Common Council this 4th day of May, 1954.

Ralph J. Leech
Mayor and Presiding Officer

ATTEST: Rundell Myers
City Clerk

sented by me to the Mayor this 4th day of May,

Rundell Myers
City Clerk

Approved by me this 4th day of May, 1954.

Ralph J. Leech
Mayor

~~EXHIBIT~~

General ORDINANCE NO. 10-1950

An Ordinance establishing a new schedule of rates and charges for the use of and service rendered by the waterworks system of the City of Marion, and repealing all ordinances and parts of ordinances in conflict herewith

WHEREAS, the Common Council has heretofore authorized the making of extensions and additions to the existing waterworks system of the City for the purpose of improving the quality and quantity of water furnished thereby, and more adequately protecting the health, well-being and property of the City and its inhabitants, and has authorized the issuance of revenue bonds payable solely out of the revenues of said waterworks system to pay the cost of said extensions and additions; and

WHEREAS, the Council now finds that the present schedule of rates and charges has been in effect for many years last past and that there has been a substantial increase in the cost of production and distribution of water during the past several years; that the existing rates and charges for water furnished by the City's waterworks system are insufficient to enable the City to operate its waterworks system properly and provide for the required service; that when the proposed extensions and additions are constructed and installed the service rendered by said waterworks system will be of greater value to its customers and that the existing rates and charges should be increased; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MARION, INDIANA:

Section 1. That the following rates and charges be and the same are hereby established for the use of and the service rendered by the waterworks system of the City of Marion, within the corporate limits of the City, based on the amount of water supplied by said waterworks system during each quarterly billing period:

First	6,000 gallons	$.42 per 1,000 gallons
Next	9,000 gallons	.33 per 1,000 gallons
Next	30,000 gallons	.25 per 1,000 gallons
Next	30,000 gallons	.18 per 1,000 gallons
Next	5,000,000 gallons	.13 per 1,000 gallons
Over	5,075,000 gallons	.11 per 1,000 gallons

EXHIBIT 2

The minimum charge for any service rendered during any quarterly billing period shall be determined by the size of the meter installed on the premises of the customer and shall be as follows:

5/3 inch	$3.75
3/4 inch	4.50
1 inch	7.93
1-1/2 inch	9.05
2 inch	15.01
3 inch	24.99
4 inch	35.03
6 inch	50.00

The charge for stand-by service for fire sprinkling systems shall be at the rate of $.05 per sprinkler-head per year for each customer served, as computed on December 31 of each calendar year.

The amount to be paid by the City of Marion for fire hydrant rental shall be $50.00 per hydrant per year.

Water furnished to temporary users shall be charged for on the basis of the above gallonage rates. The amount of water used by such temporary users may be determined by a meter installed for that purpose, or if no meter be installed, then as estimated by the Waterworks Superintendent. The minimum charge for any such temporary use shall be $3.75.

Sec. 2. For service rendered outside the corporate limits of the City, the foregoing rates shall be increased by twenty-five per cent (25%).

Sec. 3. All bills for water service not paid within fifteen (15) days from the due date thereof, as stated in such bills, shall be subject to a collection or deferred payment charge of ten per cent (10%) on the first Three Dollars ($3.00) and three per cent (3%) on the excess over Three Dollars ($3.00).

Sec. 4. The foregoing rates and charges are subject to approval by the Public Service Commission of Indiana and shall apply to all water furnished by the City's waterworks system after the date of the order of said Commission approving said rates and charges, or as otherwise ordered by the Commission. The existing rates and charges shall remain in full force and effect until the rates and charges fixed by this ordinance shall become effective.

Sec. 5. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Sec. 6. This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Passed and adopted by the Common Council of the City of Marion on the 6th day of May, 1950.

Willard G. Blackmun
Presiding Officer

Attest:
Robert K. Custer
City Clerk

Presented by me to the Mayor of the City of Marion on the 8th day of May, 1950, at the hour of 10:30 o'clock A. M.

Robert K. Custer
City Clerk

This ordinance approved and signed by me on the 8th day of May, 1950, at the hour of 10:30 o'clock A. M.

Willard G. Blackmun
Mayor

This page contains clickable links.

TITLE V: PUBLIC WORKS

CHAPTER 52: WASTEWATER REGULATIONS

CHAPTER 52: WASTEWATER REGULATIONS

Section

General Provisions

52.001 Purpose and policy
52.002 Administration
52.003 Abbreviations
52.004 Definitions

General Sewer Use Requirements

52.015 Prohibited discharge standards
52.016 National categorical pretreatment standards
52.017 State pretreatment standards
52.018 Local limits
52.019 Right of revision
52.020 Dilution
52.021 Discretionary action

Pretreatment of Wastewater

52.040 Pretreatment facilities
52.041 Additional pretreatment measures
52.042 Accidental discharge/slug discharge control plans
52.043 Hauled wastewater
52.044 Regulation of waste received from other jurisdictions

Wastewater Discharge Permits

52.060 Wastewater analysis
52.061 Wastewater discharge permit requirement
52.062 Wastewater discharge permit application contents
52.063 Application signatories and certifications
52.064 Wastewater discharge permit decisions

Wastewater Discharge Permit Issuance

52.080 Wastewater discharge permit duration
52.081 Wastewater discharge permit contents
52.082 Permit issuance process
52.083 Permit modification
52.084 Wastewater discharge permit transfer
52.085 Wastewater discharge permit revocation
52.086 Wastewater discharge permit reissuance

Reporting Requirements

52.100 CIU and NSCIU baseline monitoring reports
52.101 CIU compliance schedule progress reports
52.102 CIU Reports on compliance with categorical pretreatment standard deadline
52.103 SIU Periodic compliance reports
52.104 Non-CIU compliance schedule reports
52.105 Reports of changed conditions

52.106 Reports of potential problems
52.107 Reports from non-SIUs
52.108 Notice of violation/repeat sampling and reporting
52.109 Notification of the discharge of hazardous waste
52.110 Date of receipt of reports
52.111 Electronic reporting
52.112 Recordkeeping
52.113 Certification statements

Sampling and Compliance Monitoring

52.130 Representative sample
52.131 Control manhole
52.132 Analytical requirements
52.133 Sample collection
52.134 Right of entry - inspection and sampling
52.135 Search warrants

Confidential Information

52.150 Confidential information

Publication of Users in Significant Noncompliance

52.160 Publication of users in significant noncompliance

Administrative Enforcement Remedies

52.170 Notification of violation
52.171 Consent orders
52.172 Show cause hearing
52.173 Compliance orders
52.174 Cease and desist orders
52.175 Administrative fines
52.176 Emergency suspensions
52.177 Termination of discharge
52.178 Appeals

Judicial Enforcement Remedies

52.190 Injunctive relief
52.191 Civil penalties
52.192 Criminal prosecution
52.193 Remedies nonexclusive

Supplemental Enforcement Action

52.210 Payment of outstanding fees and penalties
52.211 Water supply severance
52.212 Public nuisances
52.213 Contractor listing
52.214 Cost recovery

Affirmative Defenses to Discharge Violations

52.230 CIU upset
52.231 Prohibited discharge standards
52.232 Bypass

Surcharge Sampling and Volume Determinations

52.250 Sampling and testing for surcharges or user charges

52.251 Deposit
52.252 Wastewater volume determination
Miscellaneous Provisions
52.270 Pretreatment charges and fees

GENERAL PROVISIONS

§ 52.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for users of the publicly owned treatment works for the city and enables the Board to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(3) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(4) To promote reuse and recycling of wastewater and sludge from the publicly owned treatment works;

(5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(6) To enable the Board to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

(B) This chapter shall apply to all users of the publicly owned treatment works. The chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting.

(Ord. 9-2016, passed 6-7-2016)

§ 52.002 ADMINISTRATION.

(A) The City Utility Service Board shall, in accordance with the state law, make and enforce whatever bylaws, rules and regulations it deems necessary for the safe, economical and efficient management of the wastewater utility, for the construction and use of building sewers and connections to the sewerage system including storm water and surface drainage, for the regulation, collection and refunding of the rates and charges for wastewater service and for the extension or replacement of sewer mains.

(B) Except as otherwise provided herein, the Board shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Board may be delegated by the Board to a duly authorized utility representative.

(C) Additional Rules and Regulations have been developed by the Board regarding the operation of waste disposal systems. These Rules and Regulations are in addition to this chapter and are incorporated by reference under this code section. Two copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for inspection in accordance with I.C. 36-1.5. Another copy shall be filed for the convenience of the public in the general Office of the Utility.

(Ord. 9-2016, passed 6-7-2016)

§ 52.003 ABBREVIATIONS.

The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD. Biochemical Oxygen Demand.

BMP. Best Management Practice.

C. Temperature in Centigrade.

CFR. Code of Federal Regulations.

CIU. Categorical Industrial User.

COD. Chemical Oxygen Demand.

EPA. U.S. Environmental Protection Agency.

F. Temperature in Fahrenheit.

gpd. gallons per day.

IAC. Indiana Administrative Code.

mg/l. milligrams per liter.

NPDES. National Pollutant Discharge Elimination System.

NSCIU. Non-Significant Categorical Industrial User.

POTW. Publicly Owned Treatment Works.

SIU. Significant Industrial User.

TSS. Total Suspended Solids.

U.S.C. United States Code.

(Ord. 9-2016, passed 6-7-2016)

§ 52.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or ***THE ACT.*** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251 *et seq.*

APPROVAL AUTHORITY. EPA Region V Regional Administrator.

AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER.

(1) If the user is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) If the user is an individual or any other legal entity: the individual or a legally authorized representative, agent, or assignee.

(5) The individuals described in divisions (1) through (4), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Board.

BEST MANAGEMENT PRACTICES or ***BMPs.*** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 52.015(A) and (B). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with certain established categorical pretreatment standards and effluent limits.

BIOCHEMICAL OXYGEN DEMAND or ***BOD.*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

BOARD. The City Utility Service Board per I.C. 36-9-2-15 or its duly authorized representative.

CATEGORICAL INDUSTRIAL USER or ***CIU.*** A user subject to a categorical pretreatment standard or categorical standard.

CATEGORICAL PRETREATMENT STANDARD or ***CATEGORICAL STANDARD.*** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

CHEMICAL OXYGEN DEMAND or ***COD.*** A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

CITY. Marion, Indiana.

COMBINED SEWER. A sewer which carries both storm, surface and groundwater runoff and sewage.

CONTROL DOCUMENT. A letter, notice, agreement, contract, or other document used to limit, regulate, or authorize a user's discharge.

DAILY MAXIMUM. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

DAILY MAXIMUM LIMIT. The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

DISCHARGE. The introduction of pollutants into the POTW from any source.

ENVIRONMENTAL PROTECTION AGENCY or ***EPA.*** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

EXISTING SOURCE. Any source of discharge that is not a "new source."

GRAB SAMPLE. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

INFLOW. The water discharged to a sewer system from such sources as roof downspouts, cellar, yard and area drains, foundation drains, cooling water discharges, drainage of land, manhole covers, catch basins, storm sewers, surface runoff and street drainage.

INSTANTANEOUS LIMIT. The maximum concentration of a pollutant allowed to be discharged at anytime, determined from the analysis of any discrete or composited sample collected, independent of the user flow rate and the duration of the sampling event.

INTERFERENCE. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or, is a cause of a violation of the Board's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: § 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

LOCAL LIMIT. Specific discharge limits developed and enforced by the Board to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs are considered local limits.

MAXIMUM ALLOWABLE INDUSTRIAL LOADING. The estimated maximum loading of a pollutant that can be received at a POTW's headworks from all SIUs or other controlled sources without causing pass through or interference. The maximum allowable industrial loading is calculated by applying a safety factor to the maximum allowable headworks loading and discounting for uncontrolled sources, hauled waste, and growth allowance.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

MONTHLY AVERAGE. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

MONTHLY AVERAGE LIMIT. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

NEW SOURCE.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located;

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of division (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this division has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program:

1. Any placement, assembly, or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

NONCONTACT COOLING WATER. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

PASS THROUGH. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Board's NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

POLLUTANT. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

PRETREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

PRETREATMENT STANDARDS OR STANDARDS. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

PROHIBITED DISCHARGE STANDARDS or ***PROHIBITED DISCHARGES.*** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 52.015.

PUBLICLY OWNED TREATMENT WORKS or ***POTW.*** A treatment works, as defined by § 212 of the Act (33 U.S.C. § 1292). This definition includes any devices or systems used in the

collection, storage, treatment, recycling, and reclamation of sewage or other wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface, ground waters and unpolluted industrial waters are not intentionally admitted.

SEWAGE. Human excrement and gray water (household showers, dishwashing operations, and the like).

SIGNIFICANT INDUSTRIAL USER (SIU). Except as provided in divisions (3) and (4) of this definition, a SIU is:

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the Board on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) The Board may determine that a user subject to categorical pretreatment standards is a NSCIU rather than a SIU on a finding that the user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(a) The user, prior to Board's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(b) The user annually submits the certification statement required in § 52.113 (see 40 CFR 403.12(q)), together with any additional information necessary to support the certification statement; and

(c) The user never discharges any untreated concentrated wastewater.

(4) Upon a finding that a user meeting the criteria in division (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Board may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a SIU.

SLUG LOAD or ***SLUG DISCHARGE.*** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 52.015. A ***SLUG DISCHARGE*** is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through or in any other way violate the POTW's regulations, local limits or permit conditions.

STORM SEWER. A sewer which carries storm surface and ground water drainage but excludes sewage.

STORM WATER. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

TOTAL SUSPENDED SOLIDS or ***SUSPENDED SOLIDS*** or ***TSS.*** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

USER. A source of discharge.

WASTEWATER. Liquid and water-carried wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER TREATMENT PLANT or ***TREATMENT PLANT.*** That portion of the POTW which is designed to provide treatment of wastewater.

(Ord. 9-2016, passed 6-7-2016)

GENERAL SEWER USE REQUIREMENTS

§ 52.015 PROHIBITED DISCHARGE STANDARDS.

(A) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(B) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 5.0 or more than 12.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW or be detrimental to POTW operation, including, but not limited to, fats, oil, grease, sand, mud, rags, plastic food packaging, paper towels, and disposable wipes;

(4) Pollutants, including oxygen-demanding pollutants (BOD, and the like), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through or wastewater containing more than 100 mg/l on non-polar oil and grease;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the Board in accordance with § 52.043;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, to prevent entry into the sewers for maintenance or repair, or cause air pollution;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Board's NPDES permit;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(12) Sludges, screenings, or other residues from the pretreatment of wastes;

(13) Medical wastes, except as specifically authorized by the Board in a wastewater discharge permit;

(14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(15) Detergents, surface-active agents, or other substances which might cause excessive foaming in the POTW, thereby violating the Board's NPDES permit;

(16) Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 10% of the lower explosive limit of the meter.

(17) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(C) *Requirements.*

(1) No person shall discharge any substance directly into a manhole or other opening in a city sewer other than through an approved building sewer, unless authorized by the Board.

(2) A user proposing to discharge industrial holding tank waste into a sanitary sewer must secure a permit from the Board. This permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics. If authorization is granted for discharge of that waste into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the Board.

(3) Inflow and unpolluted water, including but not limited to surface runoff; water from roof downspouts or foundation drains; and cooling water, process water or blow-down from cooling towers or evaporative coolers; shall not be discharged through direct or indirect connection to a sanitary sewer unless authorization is granted by the Board. If the authorization is granted for the discharge of that water into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet all other conditions required by the Board.

(4) In any new building, inflow/clear water connection to a combined sewer shall be made separate and distinct from sanitary waste connection to facilitate disconnection of the former if a separate storm sewer subsequently becomes available.

(5) The construction of combined sewers in the city sewerage system is prohibited.

(Ord. 9-2016, passed 6-7-2016)

§ 52.016 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter 1, Subchapter N, Parts 405-471. Effluent limitations promulgated by the federal act shall apply in any instance where they are more stringent than those in this chapter. The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Parts 405-471 and any future promulgated regulations are hereby incorporated.

(A) Where a categorical pretreatment standard is expressed only in terms of the concentration of a pollutant in wastewater, the Board may impose equivalent mass limits in accordance with § 52.016(D) and 40 CFR 403.6(c).

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Board shall impose an alternate limit in accordance with 40 CFR 403.6(e).

(C) A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with 40 CFR 403.15.

(D) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, a CIU may request that the Board convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Board. The Board may establish equivalent mass limits only if the CIU meets all the conditions set forth in 40 CFR 403.6(c)(5).

(E) Once included in its permit, the CIU must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(F) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four-day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(G) Any CIU operating under a permit incorporating equivalent mass limits calculated from a production-based standard shall notify the Board within two business days after the CIU has a reasonable basis to know that the production level will significantly change within the next calendar month. Any CIU not notifying the Board of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(H) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Board may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to CIUs.

(Ord. 9-2016, passed 6-7-2016)

§ 52.017 STATE PRETREATMENT STANDARDS.

A user shall comply with state pretreatment standards applicable to the user. If the state pretreatment standards are less stringent than the national pretreatment standards or local limits applicable to the user, the user shall comply with the more stringent standards. The state pretreatment standards, as amended from time to time, are hereby incorporated by reference into this chapter.

(Ord. 9-2016, passed 6-7-2016)

§ 52.018 LOCAL LIMITS.

(A) The Board is authorized to establish local limits, by ordinance, order, in wastewater discharge permits, in other control documents, or in other notice to the user, pursuant to 40 CFR 403.5(c). The local limits allocation for a given pollutant shall not exceed the most recent calculated maximum allowable industrial loading for that pollutant. Local limits may be allocated to any user whose discharge exceeds or has the potential to exceed the most recent calculated domestic background concentrations.

(B) Local limits apply at the point where the wastewater is discharged to the POTW or as specified in the SIU wastewater discharge permit or other control document. All concentrations for metallic substances are for total metal unless indicated otherwise. The Board may impose mass or concentration-based limitations.

(C) The Board may develop Best Management Practices (BMPs) for any SIU or other user, as needed, to implement this chapter. BMPs may be implemented through a wastewater discharge permit, other control document, order, or other notice to the user. BMPs are pretreatment standards and enforceable under this chapter.

(Ord. 9-2016, passed 6-7-2016)

§ 52.019 RIGHT OF REVISION.

The Board reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

(Ord. 9-2016, passed 6-7-2016)

§ 52.020 DILUTION.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Board may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. 9-2016, passed 6-7-2016)

§ 52.021 DISCRETIONARY ACTION.

Where circumstances so warrant the Board may agree to arrangements with users which modify the terms of this chapter if that arrangement complies with the NPDES permit of the Board and all other federal and state laws and regulations governing the operation of the wastewater treatment plant.

(Ord. 9-2016, passed 6-7-2016)

PRETREATMENT OF WASTEWATER

§ 52.040 PRETREATMENT FACILITIES.

(A) In the event that a user is exceeding the limitations as set forth in §§ 52.015 through 52.021, the Board shall direct the user causing the discharge of any such materials to cease and desist from those activities or operations which cause a violation of established discharge standards or to provide wastewater treatment as necessary to comply with this chapter and to achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in §§ 52.015 through 52.021 within the time limitations specified by EPA, the state, or the board, whichever is more stringent.

(B) Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Board for review, and shall be acceptable to the Board before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Board under the provisions of this chapter.

(C) Any facility classified as an industrial treatment plant per 327 IAC 5-22 shall meet the operator certification requirements in accordance with 327 IAC 5-22, as amended.

(Ord. 9-2016, passed 6-7-2016)

§ 52.041 ADDITIONAL PRETREATMENT MEASURES.

(A) Whenever deemed necessary, the Board may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from other facility wastestreams, and such other conditions as maybe necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(B) The Board may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(C) Grease, oil, and sand interceptors shall be provided for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; unless a waiver is granted by the Board (normally not applicable to residential dwellings). All interception units shall be of a type and capacity approved by the Board and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at their expense. Such interceptors shall be maintained such that the user does not violate the pretreatment standards in this chapter.

(D) (1) Waste from garbage grinders shall not be discharged into a sanitary sewer except:

(a) Wastes generated in preparation of food normally consumed on the premises; or

(b) Where the user has obtained authorization for that specific use from the Board, and agreed to undertake whatever self-monitoring is required to enable the Board to equitably determine the user charges based on the waste constituents and characteristics.

(2) These grinders shall shred the waste so that all particles shall be carried freely under normal flow conditions prevailing in the sanitary sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials or garden refuse.

(E) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. 9-2016, passed 6-7-2016)

§ 52.042 ACCIDENTAL DISCHARGE/SLUG DISCHARGE CONTROL PLANS.

(A) Each user shall provide protection from accidental discharge of prohibited materials or other regulated wastes described in §§ 52.015 through 52.021. Those facilities shall be provided and maintained at the user's expense.

(B) The Board shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The Board may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the Board may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Board of any accidental or slug discharge, as required by § 52.105; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. 9-2016, passed 6-7-2016)

§ 52.043 HAULED WASTEWATER.

(A) Hauled wastewater may be introduced into the POTW only at locations designated by the Board, and at such times as are established by the Board. Such wastewater shall not violate §§ 52.015 through 52.021 or any other requirements established by the Board.

(B) The Board may require wastewater haulers to obtain wastewater discharge permits. The Board may also require generators of hauled wastewater to obtain wastewater discharge permits. The Board also may limit the volume discharged or prohibit the disposal of hauled wastewater. The discharge of hauled wastewater is subject to all other requirements of this chapter.

(C) The Board may collect samples of each hauled load to ensure compliance with applicable standards. The Board may require the wastewater hauler to provide a waste analysis of any load prior to discharge. No load may be discharged without prior consent of the Board.

(D) Wastewater haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the wastewater hauler, permit number, names and addresses of sources of wastewater, and volume and type of waste. Industrial waste haulers shall also identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(E) Wastewater haulers of sewage disposal system wastewater shall meet the requirements of 327 IAC 7, as amended, if more stringent than requirements of this chapter.

(Ord. 9-2016, passed 6-7-2016)

§ 52.044 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTION.

(A) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Board shall enter into an intermunicipal agreement with the contributing municipality.

(B) Prior to entering into an agreement required by division (A) above, the Board shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as the Board may deem necessary.

(C) An intermunicipal agreement, as required by division (A), above, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits. The requirement shall specify that such chapter and limits must be revised as necessary to reflect changes made to the Board's ordinance or local limits;

(2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Board; and which of these activities will be conducted jointly by the contributing municipality and the Board;

(4) A requirement for the contributing municipality to provide the Board with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the Board access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Board; and

(8) A provision specifying remedies available for breach of the terms, of the intermunicipal agreement.

(Ord. 9-2016, passed 6-7-2016)

WASTEWATER DISCHARGE PERMITS

§ 52.060 WASTEWATER ANALYSIS.

When requested by the Board, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The Board is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. 9-2016, passed 6-7-2016)

§ 52.061 WASTEWATER DISCHARGE PERMIT REQUIREMENT.

Based upon a review of the information provided in § 52.060, the Board shall determine whether or not a wastewater discharge permit must be issued or revised and what type of wastewater discharge permit or control document is appropriate for the user.

(A) No SIU shall discharge wastewater into the POTW without first obtaining a SIU wastewater discharge permit from the Board.

(B) The Board may require other users to obtain non-SIU or other wastewater discharge permits as necessary or issue other control documents to carry out the purposes of this chapter.

(C) Any violation of the terms and conditions of a wastewater discharge permit or other control document shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 52.170 through 178 and §§ 52.210 through 52.214. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(D) Any user required to obtain a wastewater discharge permit or other control document who proposes to begin or recommence discharging into the POTW must obtain such permit or control document prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with § 52.062, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

(E) Any user required to obtain a wastewater discharge permit or other control document who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within 30 days after said date, apply to the Board for a wastewater discharge permit in accordance with § 52.062, and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this chapter except in accordance with a wastewater discharge permit or other control document issued by the Board.

(Ord. 9-2016, passed 6-7-2016)

§ 52.062 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS.

(A) All SIUs must submit a permit application. Other users may be required to submit a permit application. The Board may require users to submit all or some of the following information as part of a permit application:

(1) *Identifying information.*

(a) The name and address of the facility, including the name of the operator and owner.

(b) Contact information, description of activities, facilities, and plant production processes on the premises;

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.*

(a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial

classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;

(b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(c) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(d) Type and amount of raw materials processed (average and maximum per day);

(e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 52.016(B) (40 CFR 403.6(e)).

(7) *Measurement of pollutants.*

(a) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Board, of regulated pollutants in the discharge from each regulated process.

(c) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 52.132. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Board or the applicable standards to determine compliance with the standard.

(e) Sampling must be performed in accordance with procedures set out in § 52.133.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on § 52.103(B) (40 CFR 403.12(e)(2)).

(9) Any other information as may be deemed necessary by the Board to evaluate the permit application.

(B) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(Ord. 9-2016, passed 6-7-2016)

§ 52.063 APPLICATION SIGNATORIES AND CERTIFICATIONS.

(A) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 52.113(A).

(B) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the Board prior to or together with any reports to be signed by an authorized representative.

(C) A facility determined to be a non-significant categorical industrial user by the Board pursuant to the definition of significant industrial user, division (3) in § 52.004 must annually submit the signed certification statement in § 52.113(B).
(Ord. 9-2016, passed 6-7-2016)

§ 52.064 WASTEWATER DISCHARGE PERMIT DECISIONS.

The Board will evaluate the data furnished by the user and may require additional information. The Board may deny any application for a wastewater discharge permit.
(Ord. 9-2016, passed 6-7-2016)

WASTEWATER DISCHARGE PERMIT ISSUANCE

§ 52.080 WASTEWATER DISCHARGE PERMIT DURATION.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the Board. Each wastewater discharge permit will indicate a specific date upon which it will expire.
(Ord. 9-2016, passed 6-7-2016)

§ 52.081 WASTEWATER DISCHARGE PERMIT CONTENTS.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Board to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(A) SIU wastewater discharge permits must contain the following. Other wastewater discharge permits may contain the following:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date.

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Board in accordance with § 52.084, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(3) Effluent limits, including best management practices, based on applicable pretreatment standards.

(4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with § 52.103(B).

(6) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(7) Requirements to control slug discharge, if determined by the Board to be necessary.

(8) Any grant of the monitoring waiver by the Board (§ 52.103(B)) must be included as a condition in the CIU's permit.

(B) SIU and other wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation, and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

(8) Other conditions as deemed appropriate by the Board to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(Ord. 9-2016, passed 6-7-2016)

§ 52.082 PERMIT ISSUANCE PROCESS.

(A) *Public notification.* The Board will publish, in a newspaper of general circulation that provides meaningful public notice with the jurisdiction served by the POTW, a notice to issue a pretreatment wastewater discharge permit at least 30 days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.

(B) *Appeals.* Any person, including the user, may petition the Board to reconsider the terms of a wastewater discharge permit within 15 days of notice of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(4) If the Board fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a SIU wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Grant Circuit or Superior Court, Grant County, Indiana within 30 days.

(Ord. 9-2016, passed 6-7-2016)

§ 52.083 PERMIT MODIFICATION.

The Board may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(A) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(B) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;

(C) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(D) Information indicating that the permitted discharge poses a threat to the POTW, utility personnel, the receiving waters, or the POTW's beneficial sludge use;

(E) Violation of any terms or conditions of the wastewater discharge permit;

(F) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(H) To correct typographical or other errors in the wastewater discharge permit; or

(I) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 52.084.

(Ord. 9-2016, passed 6-7-2016)

§ 52.084 WASTEWATER DISCHARGE PERMIT TRANSFER.

(A) Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the Board and the Board approves the wastewater discharge permit transfer. The notice to the Board must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

(B) Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(Ord. 9-2016, passed 6-7-2016)

§ 52.085 WASTEWATER DISCHARGE PERMIT REVOCATION.

(A) The Board may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the Board of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the Board of changed conditions pursuant to § 52.105;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports and certification statements;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the Board timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

(B) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a user are void upon the issuance of a new wastewater discharge permit to that user.

(Ord. 9-2016, passed 6-7-2016)

§ 52.086 WASTEWATER DISCHARGE PERMIT REISSUANCE.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 52.062, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. 9-2016, passed 6-7-2016)

REPORTING REQUIREMENTS

§ 52.100 CIU AND NSCIU BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under40 CFR 403.6(a)(4), whichever is later, existing CIUs currently discharging to or scheduled to discharge to the POTW shall submit to the Board a report which contains the information listed in division (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become CIUs subsequent to the promulgation of an applicable categorical standard, shall submit to the Board a report which contains the information listed in division (B), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) CIUs described above shall submit the information set forth below.

(1) All information required in §§ 52.062(A)(1)(a), 52.062(A)(2), 52.062(A)(3)(a), and 52.062(A)(6).

(2) *Measurement of pollutants.*

(a) The CIU shall provide the information required in § 52.062(A)(7)(a) through (d);

(b) The CIU shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this division;

(c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the CIU should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Board;

(d) Sampling and analysis shall be performed in accordance with §§ 52.132 and 52.133;

(e) The Board may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(f) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(3) *Compliance certification.* A statement, reviewed by the CIU's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(4) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 52.101.

(5) *Signature and report certification.* All baseline monitoring reports must be certified in accordance with § 52.113(A) and signed by an authorized representative.

(Ord. 9-2016, passed 6-7-2016)

§ 52.101 CIU COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 52.100(B)(4):

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the CIU to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(B) No increment referred to above shall exceed nine months;

(C) The CIU shall submit a progress report to the Board no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the CIU to return to the established schedule; and

(D) In no event shall more than nine months elapse between such progress reports to the Board.

(Ord. 9-2016, passed 6-7-2016)

§ 52.102 CIU REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any CIU subject to such pretreatment standards and requirements shall submit to the Board a report containing the information described in §§ 52.062(A)(6) and (7) and 52.100(B)(2). For CIUs subject to equivalent mass limits established in accordance with the procedures in § 52.016, this report shall contain a reasonable measure of the CIU's long-term production rate. For all other CIUs subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the CIU's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 52.113(A). All sampling will be done in conformance with §§ 52.130 through 52.135.

(Ord. 9-2016, passed 6-7-2016)

§ 52.103 SIU PERIODIC COMPLIANCE REPORTS.

(A) All SIUs must, at a frequency determined by the Board submit no less than twice per year (June and December, or on dates specified) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the SIU must submit documentation required by the Board or the pretreatment standard necessary to determine the compliance status of the SIU.

(B) The Board may authorize a CIU to forego sampling of a pollutant regulated by a categorical pretreatment standard if the CIU has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the CIU (see 40 CFR 403.12(e)(2)). This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the SIU wastewater discharge permit, but in no case longer than five years. The CIU must submit a new request for the waiver before the waiver can be granted for each subsequent SIU wastewater discharge permit.

(3) In making a demonstration that a pollutant is not present, the CIU must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with the definition of authorized or duly authorized representative of the user § 52.004, and include the certification statement in § 52.113(A) (40 CFR 403.6(a)(2)(H)).

(5) Non-detectable sample results maybe used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Board must be included as a condition in the CIU's permit. The reasons supporting the waiver and
any information submitted by the CIU in its request for the waiver must be maintained by the Board for three years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the CIU's permit by the Board, the CIU must certify on each report with the statement in § 52.113(C) below, that there has been no increase in the pollutant in its wastestream due to activities of the CIU.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the CIU's operations, the CIU must immediately: comply with the monitoring requirements of § 52.103(A), or other more frequent monitoring requirements imposed by the Board, and notify the Board.

(9) This provision does not supersede certification processes and requirements established in categorical pretreatment standards/except as otherwise specified in the categorical pretreatment standard.

(C) All SIU periodic compliance reports must be signed and certified in accordance with § 52.113(A).

(D) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(E) If a SIU subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Board, using the procedures prescribed in § 52.133, the results of this monitoring shall be included in the report.

(Ord. 9-2016, passed 6-7-2016)

§ 52.104 NON-CIU COMPLIANCE SCHEDULE REPORTS.

Any non-CIU which is not in compliance with this chapter shall develop a compliance schedule by which time the user shall meet the discharge prohibitions or requirements in §§ 52.015 through 52.021. The schedule should contain increments of progress, which correspond to specific dates for their completion. All users subject to these conditions shall submit a progress report to the Board no later than 14 days following each date in the compliance schedule. This report shall state if it complies with the increment of progress to be met on that date, the reason for delay if the date was not met, and the steps being taken to return to compliance. In no event shall more than six months elapse between progress reports.

(Ord. 9-2016, passed 6-7-2016)

§ 52.105 REPORTS OF CHANGED CONDITIONS.

Each user must notify the Board of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change.

(A) The Board may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

(B) The Board may issue a wastewater discharge permit or modify a wastewater discharge permit in response to changed conditions or anticipated changed conditions.

(Ord. 9-2016, passed 6-7-2016)

§ 52.106 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, any user shall immediately telephone and notify the Board of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless waived by the Board, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in division (A), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(D) SIUs are also required to notify the Board immediately of any changes at its facility affecting the potential for a slug discharge.
(Ord. 9-2016, passed 6-7-2016)

§ 52.107 REPORTS FROM NON-SIUS.

All users not required to obtain a SIU wastewater discharge permit shall provide appropriate reports to the Board as the Board may require.
(Ord. 9-2016, passed 6-7-2016)

§ 52.108 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

If sampling performed by a user indicates a violation, the user must notify the Board within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Board within 30 days after becoming aware of the violation. Resampling by the user is not required if the Board performs sampling at the user's facility at least once a month, or if the Board performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the Board receives the results of this sampling, or if the Board has performed the sampling and analysis in lieu of the user. If the Board performed the sampling and analysis in lieu of the user, the Board will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.
(Ord. 9-2016, passed 6-7-2016)

§ 52.109 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(A) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. The user shall notify the POTW within 24 hours of becoming aware of the discharge. All notifications to EPA and the state must take place no later than 180 days after the discharge commences. Any notification under this division need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 52.105. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 52.100, 52.102 and 52.103.

(B) Dischargers are exempt from the requirements of division (A), above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulations under § 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Board, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(D) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(Ord. 9-2016, passed 6-7-2016)

§ 52.110 DATE OF RECEIPT OF REPORTS.

Mailed, written reports will be deemed to have been submitted on the date postmarked. For written reports which are faxed, scanned and emailed, or hand-delivered, the date of receipt of the report shall govern.

(Ord. 9-2016, passed 6-7-2016)

§ 52.111 ELECTRONIC REPORTING.

Upon approval, users sending electronic (digital) documents to the Board to satisfy the requirements of this section must meet the requirements or future requirements of EPA and Indiana regulations.

(Ord. 9-2016, passed 6-7-2016)

§ 52.112 RECORDKEEPING.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under § 52.018(C). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; copies of completed chain-of-custody forms; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the Board, or where the user has been specifically notified of a longer retention period by the Board.

(Ord. 9-2016, passed 6-7-2016)

§ 52.113 CERTIFICATION STATEMENTS.

(A) *Certification of permit applications; user reports and initial monitoring waiver.* The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 52.063; SIUs submitting baseline monitoring reports under § 52.100(B)(5); CIUs submitting reports on compliance with the categorical pretreatment standard deadlines under § 52.102; SIUs submitting periodic compliance reports required by § 52.103(A) through (D), CIUs submitting an initial request to forego sampling of a pollutant on the basis of § 52.103(B)(4), and non-SIUs submitting reports required by § 52.107. The following certification statement must be signed by an authorized representative as defined in § 52.004:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(B) *Annual certification for non-significant categorical industrial users.* A facility determined to be a non-significant categorical industrial user by the Board pursuant to the definition of pretreatment standards, division (3) in § 52.004 and § 52.063(C) must annually submit the following certification statement signed in accordance with the signatory requirements in the definition of authorized or duly authorized representative in § 52.004. This certification must accompany an alternative report required by the Board:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ___, I certify that, to the best of my knowledge and belief that during the period from _____, _____to _____, _____[months, days, year]:

(a) The facility described as _____[facility name] met the definition of a Non-Significant Categorical Industrial User as described in the definition of pretreatment standards, division (3) in § 52.004 ;

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

_____

_____

(C) *Certification of pollutants not present.* Users that have an approved monitoring waiver based on § 52.103(B) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR ___[specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____[list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under § 52.103 (A).

(Ord. 9-2016, passed 6-7-2016)

SAMPLING AND COMPLIANCE MONITORING

§ 52.130 REPRESENTATIVE SAMPLE.

All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(Ord. 9-2016, passed 6-7-2016)

§ 52.131 CONTROL MANHOLE.

All users who discharge pollutants other than sewage to the POTW and who make a new connection or modify an existing connection to the POTW shall install a control manhole unless the Board determines that a control manhole is not required. In addition, the Board shall have the authority to require any user, at the user's expense, to install a control manhole if the Board determines that such a manhole is necessary to protect the POTW.
(Ord. 9-2016, passed 6-7-2016)

§ 52.132 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Board or other parties approved by EPA.
(Ord. 9-2016, passed 6-7-2016)

§ 52.133 SAMPLE COLLECTION.

(A) Except as indicated in divisions (B) and (C) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Board. Where time-proportional composite sampling or grab sampling is authorized by the Board, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Board, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(B) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(C) For sampling required in support of baseline monitoring and 90-day compliance reports required in § 52.100 and 52.102 (40 CFR 403.12(b) and (d)), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Board may authorize a lower minimum. For the reports required by § 52.103 (40 CFR 403.12(e) and 403.12(h)), the SIU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.
(Ord. 9-2016, passed 6-7-2016)

§ 52.134 RIGHT OF ENTRY - INSPECTION AND SAMPLING.

The Board shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the Board ready access to all parts of the premises for the

purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(A) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Board shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(B) The Board shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct independent sampling and/or metering of the user's operations.

(C) The Board may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy. When the monitoring facility is constructed in the public right-of-way or easement, in an unobstructed location, the location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis. Whether constructed on public or private property, the monitoring facilities should be provided in accordance with the Board's requirements and all applicable local construction standards and specifications.

(D) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Board and shall not be replaced. The costs of clearing such access shall be born by the user.

(E) Unreasonable delays in allowing the Board access to the user's premises shall be a violation of this chapter.

(Ord. 9-2016, passed 6-7-2016)

§ 52.135 SEARCH WARRANTS.

If the Board has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Board designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Board may seek issuance of a search warrant from the Grant Circuit or Superior Court, Grant County, Indiana.

(Ord. 9-2016, passed 6-7-2016)

CONFIDENTIAL INFORMATION

§ 52.150 CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Board's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Board, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental

agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.
(Ord. 9-2016, passed 6-7-2016)

PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

§ 52.160 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The Board shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous 12 months, were in SNC with applicable pretreatment standards and requirements. The term SNC shall be applicable to all SIUs (or any other user that violates divisions (C), (D) or (H) of this section) and shall mean:

(A) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in §§ 52.015 through 52.021;

(B) Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by §§ 52.015 through 52.021 multiplied by the applicable criteria (1.4 for TSS, BOD, fats, oils and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a pretreatment standard or requirement as defined by §§ 52.015 through 52.021 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Board determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(D) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Board's exercise of its emergency authority to halt or prevent such a discharge;

(E) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in any wastewater discharge permit, other control document, or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance; or

(H) Any other violation(s), which may include a violation of best management practices, which the Board determines will adversely affect the operation or implementation of the local pretreatment program.
(Ord. 9-2016, passed 6-7-2016)

ADMINISTRATIVE ENFORCEMENT REMEDIES

§ 52.170 NOTIFICATION OF VIOLATION.

When the Board finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement, the Board may serve upon that user a written

notice of violation. Within ten days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Board. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Board to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
(Ord. 9-2016, passed 6-7-2016)

§ 52.171 CONSENT ORDERS.

The Board may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance, Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§ 52.173 and 52.174 and shall be judicially enforceable.
(Ord. 9-2016, passed 6-7-2016)

§ 52.172 SHOW CAUSE HEARING.

The Board may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Board and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 52.004 and required by § 52.066(A). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
(Ord. 9-2016, passed 6-7-2016)

§ 52.173 COMPLIANCE ORDERS.

When the Board finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement, the Board may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. If the user does not come into compliance within the time provided, sewer service may be discontinued.
(Ord. 9-2016, passed 6-7-2016)

§ 52.174 CEASE AND DESIST ORDERS.

When the Board finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to

recur, the Board may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(A) Immediately comply with all requirements; and

(B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 9-2016, passed 6-7-2016)

§ 52.175 ADMINISTRATIVE FINES.

(A) When the Board finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement, a fine may be assessed in accordance with Board policy. The amount of the fine may be determined on an individual basis at the Board's discretion and in an amount not to exceed the maximum fine allowed under state law. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Administrative fines are punitive in nature and are assessed to recapture the full or partial economic benefit of noncompliance and to deter future violations.

(B) Unpaid charges, fines, and penalties shall be assessed in accordance with current Board policy. A lien against the user's property shall be sought for unpaid charges, fines, and penalties.

(C) Users desiring to dispute such fines must file a written request for the Board to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the Board may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Board may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(D) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 9-2016, passed 6-7-2016)

§ 52.176 EMERGENCY SUSPENSIONS.

(A) The Board may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangermentto the health or welfare of persons. The Board may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Board may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Board may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Board that the period of endangerment has passed, unless the termination proceedings in § 52.176 are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful

contribution and the measures taken to prevent any future occurrence, to the Board prior to the date of any show cause or termination hearing under §§ 52.172 or 52.176.

(B) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. 9-2016, passed 6-7-2016)

§ 52.177 TERMINATION OF DISCHARGE.

(A) In addition to the provisions in § 52.085, any user who violates the following conditions is subject to discharge termination:

(1) Violation of wastewater discharge permit or other control document conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) Refusal of reasonable access to the user's premises for. the purpose of inspection, monitoring, or sampling; or

(5) Violation of the pretreatment standards in §§ 52.015 through 52.021.

(6) Failure to comply with administrative enforcement remedies in this chapter.

(B) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 52.172 why the proposed action should not be taken. Exercise of this option by the Board shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. 9-2016, passed 6-7-2016)

§ 52.178 APPEALS.

(A) Any user affected by any decision, action or determination, including cease and desist orders, made by the Board, interpreting or implementing the provisions of this section or in any authorization issued herein, may file with the Board a written request for reconsideration within ten days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the Board is unsatisfactory to the person requesting reconsideration, he or she may, within ten days after notification of Board action, file a written appeal to the Board. The written appeal shall be heard by the Board within 30 days from the date of filing. The Board shall make a final ruling on the appeal within ten days of the close of the meeting. The Board's decision, action, or determination shall remain in effect during that period of reconsideration.

(Ord. 9-2016, passed 6-7-2016)

JUDICIAL ENFORCEMENT REMEDIES

§ 52.190 INJUNCTIVE RELIEF.

When the Board finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement, the Board may petition the Grant Circuit or Superior Court, Grant County, Indiana through the Board's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental

remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.
(Ord. 9-2016, passed 6-7-2016)

§ 52.191 CIVIL PENALTIES.

(A) A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Board for a maximum civil penalty of $2,500 for any first offense, and $7,500 for any second offense per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(B) The Board may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Board.

(C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(D) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
(Ord. 9-2016, passed 6-7-2016)

§ 52.192 CRIMINAL PROSECUTION.

(A) A user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement shall be referred to the State of Indiana or the EPA for legal action and, upon conviction, be guilty of a misdemeanor, punishable by the maximum fine or imprisonment, or both, as allowed by EPA or the State of Indiana.

(B) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall be referred to the State of Indiana or EPA for legal action and, upon conviction, be subject to the maximum penalty or be subject to the maximum imprisonment, or both, as allowed by the State of Indiana or EPA. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(C) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, other control document, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall be referred to the State of Indiana or the EPA for legal action and, upon conviction, be punished by the maximum fine or imprisonment, or both, as allowed by EPA or the State of Indiana.

(D) In the event of a second conviction, a user shall be punished by the maximum fine or imprisonment, or both, as allowed by EPA or the State of Indiana.
(Ord. 9-2016, passed 6-7-2016)

§ 52.193 REMEDIES NONEXCLUSIVE.

The remedies provided for in this chapter are not exclusive. The Board may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment

violations will generally be in accordance with the Board's enforcement response plan. However, the Board may take other action against any user when the circumstances warrant. Further, the Board is empowered to take more than one enforcement action against any noncompliant user.
(Ord. 9-2016, passed 6-7-2016)

SUPPLEMENTAL ENFORCEMENT ACTION

§ 52.210 PAYMENT OF OUTSTANDING FEES AND PENALTIES.

The Board may decline to issue or reissue a wastewater discharge permit or other control document to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous wastewater discharge permit, other control document, or order issued hereunder.
(Ord. 9-2016, passed 6-7-2016)

§ 52.211 WATER SUPPLY SEVERANCE.

Whenever a user has violated or continues to violate any provision of this chapter, an individual wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply.
(Ord. 9-2016, passed 6-7-2016)

§ 52.212 PUBLIC NUISANCES.

A violation of any provision of this chapter, a wastewater discharge permit, other control document, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Board. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the Board for any costs incurred in removing, abating, or remedying said nuisance.
(Ord. 9-2016, passed 6-7-2016)

§ 52.213 CONTRACTOR LISTING.

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Board. Existing contracts for the sale of goods or services to the Board held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Board.
(Ord. 9-2016, passed 6-7-2016)

§ 52.214 COST RECOVERY.

When a discharge of wastes causes an obstruction, damage, or any other impairment to the POTW, the Board may assess a charge against the user for the work required to clean or repair the facility and add that charge to the user's charges and fees. The user may be responsible for paying the following (but not limited to) costs:

(A) Cost of mileage and labor incurred in detecting and correcting the violation;

(B) Laboratory analysis costs associated with detecting and correcting the violation;

(C) Additional treatment costs caused by the violation or associated with detecting and correcting the violation;

(D) Costs of any additional equipment acquired or expended by the Board for detecting or correcting the violation;

(E) Repair and/or replacement of any part of the sewerage system damaged by the violation;

(F) Any liability, damages, fines or penalties incurred by the Board as a result of the violation;

(G) Any and all expenses of outside professionals to include, but not limited to, engineers, scientists, and/or legal counsel; and

(H) Other costs associated with the detection and correction of the violations.

(Ord. 9-2016, passed 6-7-2016)

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 52.230 CIU UPSET.

(A) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the CIU. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(B) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of division (C), below, are met.

(C) A CIU who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the CIU can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The CIU has submitted the following information to the Board within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

(a) A description of the indirect discharge and cause of noncompliance;

(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(D) In any enforcement proceeding, the CIU seeking to establish the occurrence of an upset shall have the burden of proof.

(E) CIUs shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(F) CIUs shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. 9-2016, passed 6-7-2016)

§ 52.231 PROHIBITED DISCHARGE STANDARDS.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 52.015(A) or the specific prohibitions in § 52.015(B)(3) through (7) and (9) through (17) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(B) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Board was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. 9-2016, passed 6-7-2016)

§ 52.232 BYPASS.

(A) For the purposes of this section,

(1) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(B) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions (C) and (D) of this section.

(C) *Bypass notifications.*

(1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Board, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the Board of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Board may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(D) *Bypass.*

(1) Bypass is prohibited, and the Board may take an enforcement action against a user for a bypass, unless

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (C) of this section.

(2) The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed in division (D)(1) of this section.

(Ord. 9-2016, passed 6-7-2016)

SURCHARGE SAMPLING AND VOLUME DETERMINATIONS

§ 52.250 SAMPLING AND TESTING FOR SURCHARGES OR USER CHARGES.

(A) The discharged sewage shall be sampled during each surcharge billing period for a minimum of a one day period, i.e., 24 hours, by means of a composite sample. An extended sampling period of up to one week, i.e., seven continuous days, or reduction may be requested to enable the gathering of a sample representative of a business' sewage. The extension or reduction of the sampling period beyond the initial one day sampling period may be requested by either the sewer user involved or the Board. If an extended sampling period is requested, the parameter values used to calculate the surcharge shall be the arithmetical average of the individual values. If a user has multiple discharges of sewage, each discharge shall be sampled according to quality. The volume of each discharge shall be determined by actual measurement or by means of process usage. If significant process changes are made to affect quality of any discharge, resampling may be requested by either the user involved or the Board.

(B) The sample shall be measured for the following parameters: Carbonaceous Biochemical oxygen demand (CBOD) total suspended solids (TSS) and/or phosphorus. These tests shall be conducted in accordance with the Code of Federal Regulations, Title 40, Part 136, Guideline Establishing Test Procedures for the Analysis of Pollutants.

(Ord. 9-2016, passed 6-7-2016)

§ 52.251 DEPOSIT.

The utility may require from each applicant for wastewater service a cash deposit of $60 as a guarantee against the non-payment of bills for service. However, if the applicant is an owner of real property whose credit is approved by the utility, the deposit may be waived. If the customer's bill remains unpaid for a period of five days after the date of the final bill or the date of discontinuance of service, the amount of that bill shall be deducted from the deposit and the balance, if any, will be remitted to the depositor.

(Ord. 9-2016, passed 6-7-2016)

§ 52.252 WASTEWATER VOLUME DETERMINATION.

(A) *Metered water supply.* User charges and fees shall be based upon the total amount of water used from all sources unless, in the opinion of the Board, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources shall be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the Board.

(B) *Metered wastewater volume and metered diversions.* For users where, in the opinion of the Board, a significant portion of the water received from any material sources does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the user charges and fees shall be applied against the volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water shall be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the Board and at the user's expense. These meters may measure either the amount of sewage discharge or the amount of water diverted. These meters shall be tested for accuracy at the expense of the user when deemed necessary by the Board.

(C) *Estimated wastewater volume.*

(1) *Users without source meters.* For users where, in the opinion of the Board, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the Board. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity,

population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.

(2) *Users with source meters.* For users who, in the opinion of the Board, divert a significant portion of their flow from a sanitary sewer, the user charges may be based upon:

(a) Direct measurement of the diverted flow; or

(b) An estimate of the volume prepared by the user provided the user obtains wastewater discharge authorization and pays the applicable user charges and fees. The estimate shall include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

(Ord. 9-2016, passed 6-7-2016)

MISCELLANEOUS PROVISIONS

§ 52.270 PRETREATMENT CHARGES AND FEES.

The Board may adopt reasonable fees for reimbursement of costs of setting up and operating the Board's pretreatment program.

(Ord. 9-2016, passed 6-7-2016)

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General Ordinance No. 9 -2016

AN ORDINANCE AMENDING THE RULES AND REGULATIONS CONCERNING REGULATION OF SEWER USE AND WASTEWATER DISCHARGE IN THE CITY OF MARION, INDIANA

WHEREAS, the City of Marion ("Marion") has heretofore constructed, and has in operation, wastewater collection and treatment infrastructure, processes, and facilities; and

WHEREAS, the Marion Utility Service Board ("Board") supervises, controls, and is responsible for the operation, maintenance, and regulatory compliance of said infrastructure, processes, and facilities; and

WHEREAS, the United States Environmental Protection Agency (USEPA) requires periodic review of, and subsequent updates to, the City's Sewer Use Ordinance and Wastewater Regulations; and

WHEREAS, the Board has reviewed said Ordinance and Regulations and has determined that associated laws and statutes have been modified resulting in a requirement to update the City's Sewer Use Ordinance and associated Regulations; and

WHEREAS, the Board has adopted Resolution No. 3-2016, recommending to the Common Council of the City of Marion, Indiana ("Council") the required updates to General Ordinance No. 11-2010; and

WHEREAS, the Council agrees with the recommendation of the Board and now desires to amend said Ordinance consistent with the Board's recommendations.

IT IS THEREFORE CONSIDERED, ORDAINED, AND ADOPTED as follows:

Section 1. **Recitals.** The foregoing recitals are incorporated herein by reference.

Section 2. **General Ordinance No. 11-2010 Repealed and Replaced.** General Ordinance No. 11-2010 of the City of Marion, Indiana is hereby repealed and replaced with the language in Exhibit A attached hereto and incorporated herein by reference.

Section 3. **Inconsistent Ordinances Superseded.** Any ordinance, rule, resolution, or regulation or provision, chapter, section, subsection, or subparagraph thereof that is/are inconsistent with the Ordinance is/are hereby superseded. However, any ordinance, rule resolution, or regulation or provision, chapter,

section, subsection, or sub paragraph thereof that is/are not inconsistent with this Ordinance remain(s) in full force and effect.

Section 4. **Utility Service Board Recommendation.** The Board reviewed this Ordinance and has recommended that the Council adopt this Ordinance.

Section 5. **Severability.** The provisions of this Ordinance are separable, and if a court of competent jurisdiction declares any portion of this Ordinance unconstitutional, invalid, or unenforceable for any reason, such declaration shall not affect the remaining portions of this Ordinance.

Section 6. **Effective Date.** This Ordinance is effective immediately upon passage.

RECOMMENDED FOR APPROVAL BY THE Utility Service Board of the City of Marion, Indiana this 7th day of April, 2016.

Robert Logan
Chairman, Marion Utility Service Board

PASSED AND APPROVED BY THE Common Council of the City of Marion, Indiana this 7 day of June 2016.

James Brunner
President, Marion Common Council

ATTEST:
Kathleen Kiley, City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 8 day of June, 2016.

Kathleen Kiley, City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 9th day of June, 2016.

Mayor, Jess Alumbaugh

EXHIBIT A

General Ordinance No. 9 -2016

SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Marion and enables the Board to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this ordinance are:

A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;

B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

D. To promote reuse and recycling of wastewater and sludge from the Publicly Owned Treatment Works;

E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

F. To enable the Board to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires User reporting.

1.2 Administration

The City Utility Service Board shall, in accordance with the State law, make and enforce whatever bylaws, rules and regulations it deems necessary for the safe, economical and efficient management of the wastewater utility, for the construction and use of building sewers and connections to the sewerage system including storm water and surface drainage, for the regulation, collection and refunding of the rates and charges for wastewater service and for the extension or replacement of sewer mains.

Except as otherwise provided herein, the Board shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Board may be delegated by the Board to a duly authorized utility representative.

Additional Rules and Regulations have been developed by the Board regarding the operation of waste disposal systems. These Rules and Regulations are in addition to this ordinance and are incorporated by reference under this code section. Two (2) copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for inspection in accordance with Indiana Code 36-1.5. Another copy shall be filed for the convenience of the public in the general office of the Utility.

1.3 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
C – Temperature in Centigrade
CFR – Code of Federal Regulations
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
F – Temperature in Fahrenheit
gpd – gallons per day
IAC – Indiana Administrative Code
mg/l – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
SIU – Significant Industrial User
TSS – Total Suspended Solids
U.S.C. – United States Code

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

B. Approval Authority. EPA Region V Regional Administrator

C. Authorized or Duly Authorized Representative of the User.

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) If the User is an individual or any other legal entity: the individual or a legally authorized representative, agent, or assignee.

(5) The individuals described in paragraphs 1 through 4, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Board.

D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

E. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with certain established categorical Pretreatment Standards and effluent limits.

F. Board. The City Utility Service Board per Marion City Code Section 36-9-2-15 or its duly authorized representative.

G. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

H. Categorical Industrial User or CIU. A User subject to a categorical Pretreatment Standard or categorical Standard.

I. City. Marion, Indiana.

J. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

K. Combined Sewer - A sewer which carries both storm, surface and ground water runoff and sewage.

L. Control Document. A letter, notice, agreement, contract, or other document used to limit, regulate, or authorize a User's discharge.

M. Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

N. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

O. Discharge. The introduction of pollutants into the POTW from any source.

P. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

Q. Existing Source. Any source of discharge that is not a "New Source."

R. Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

S. Inflow. The water discharged to a sewer system from such sources as roof downspouts, cellar, yard and area drains, foundation drains, cooling water discharges, drainage of land, manhole covers, catch basins, storm sewers, surface runoff and street drainage.

T. Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the user flow rate and the duration of the sampling event.

U. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or, is a cause of a violation of the Board's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

V. Local Limit. Specific discharge limits developed and enforced by the Board to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs are considered local limits.

WW. Maximum Allowable Industrial Loading. The estimated maximum loading of a pollutant that can be received at a POTW's headworks from all SIUs or other controlled sources without causing pass through or interference. The maximum allowable industrial loading is calculated by applying a safety factor to the maximum allowable headworks loading and discounting for uncontrolled sources, hauled waste, and growth allowance.

X. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Y. Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Z. Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

AA. New Source. (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering,

and design studies do not constitute a contractual obligation under this paragraph.

BB. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

CC. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Board's NPDES permit, including an increase in the magnitude or duration of a violation.

DD. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

EE. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

FF. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

GG. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

HH. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

II. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

JJ. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.

KK. Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or other wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

LL. Sanitary Sewer - A sewer which carries sewage and to which storm, surface, ground waters and unpolluted industrial waters are not intentionally admitted.

MM. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

NN. Significant Industrial User (SIU).

Except as provided in paragraphs (3) and (4) of this Section, a SIU is:

(1) A User subject to categorical Pretreatment Standards; or

(2) A User that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
(c) Is designated as such by the Board on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) The Board may determine that a User subject to categorical Pretreatment Standards is a NSCIU rather than a SIU on a finding that the User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(a) The User, prior to Board's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
(b) The User annually submits the certification statement required in Section 6.14 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
(c) The User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's

operation or for violating any Pretreatment Standard or Requirement, the Board may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a SIU.

OO. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

PP. Storm Sewer . A sewer which carries storm surface and ground water drainage but excludes sewage.

QQ. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

RR. Total Suspended Solids or Suspended Solids or TSS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

SS. User. A source of discharge.

TT. Wastewater. Liquid and water-carried wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

UU. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of wastewater.

SECTION 2—GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 5.0 or more than 12.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW or be detrimental to POTW operation, including, but not limited to, fats, oil, grease, sand, mud, rags, plastic food packaging, paper towels, and disposable wipes;

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;

(5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through or wastewater containing more than 100 mg/l on Non-polar Oil & Grease;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the Board in accordance with Section 3.4 of this ordinance;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, to prevent entry into the sewers for maintenance or repair, or cause air pollution;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Board's NPDES permit;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

(12) Sludges, screenings, or other residues from the pretreatment of wastes;

(13) Medical Wastes, except as specifically authorized by the Board in a wastewater discharge permit;

(14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(15) Detergents, surface-active agents, or other substances which might cause excessive foaming in the POTW, thereby violating the Board's NPDES permit;

(16) Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent (10 %) of the Lower Explosive Limit of the meter.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

C. Requirements

(1) No person shall discharge any substance directly into a manhole or other opening in a city sewer other than through an approved building sewer, unless authorized by the Board.

(2) A user proposing to discharge industrial holding tank waste into a sanitary sewer must secure a permit from the Board. This permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics. If authorization is granted for discharge of that waste into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the Board.

(3) Inflow and unpolluted water, including but not limited to surface runoff; water from roof downspouts or foundation drains; and cooling water, process water or blow-down from cooling towers or evaporative coolers; shall not be discharged through direct or indirect connection to a sanitary sewer unless authorization is granted by the Board. If the authorization is granted for the discharge of that water into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet all other conditions required by the Board.

(4) In any new building, inflow/clear water connection to a combined sewer shall be made separate and distinct from sanitary waste connection to facilitate disconnection of the former if a separate storm sewer subsequently becomes available.

(5) The construction of combined sewers in the City of Marion sewerage system is prohibited.

2.2 National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471. Effluent limitations promulgated by the Federal Act shall apply in any instance where they are more stringent than those in this ordinance. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 and any future promulgated regulations are hereby incorporated.

A. Where a categorical Pretreatment Standard is expressed only in terms of the concentration of a pollutant in wastewater, the Board may impose equivalent mass limits in accordance with Section 2.2 D and 40 CFR 403.6(c).

B. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Board shall impose an alternate limit in accordance with 40 CFR 403.6(e).

C. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with 40 CFR 403.15.

D. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, a CIU may request that the Board convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Board. The Board may establish equivalent mass limits only if the CIU meets all the conditions set forth in 40 CFR 403.6 (c) (5).

E. Once included in its permit, the CIU must comply with the equivalent limitations developed in this Section (2.2) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

F. Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

G. Any CIU operating under a permit incorporating equivalent mass limits calculated from a production-based Standard shall notify the Board within two (2) business

days after the CIU has a reasonable basis to know that the production level will significantly change within the next calendar month. Any CIU not notifying the Board of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

H. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Board may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to CIUs.

2.3 State Pretreatment Standards

A User shall comply with State Pretreatment Standards applicable to the User. If the State Pretreatment Standards are less stringent than the National Pretreatment Standards or Local Limits applicable to the User, the User shall comply with the more stringent standards. The State Pretreatment Standards, as amended from time to time, are hereby incorporated by reference into this Ordinance.

2.4 Local Limits

A. The Board is authorized to establish Local Limits, by ordinance, order, in wastewater discharge permits, in other control documents, or in other notice to the user, pursuant to 40 CFR 403.5(c). The Local Limits allocation for a given pollutant shall not exceed the most recent calculated Maximum Allowable Industrial Loading for that pollutant. Local Limits may be allocated to any User whose discharge exceeds or has the potential to exceed the most recent calculated domestic background concentrations.

B. Local Limits apply at the point where the wastewater is discharged to the POTW or as specified in the SIU wastewater discharge permit or other control document. All concentrations for metallic substances are for total metal unless indicated otherwise. The Board may impose mass or concentration-based limitations.

C. The Board may develop Best Management Practices (BMPs) for any SIU or other User, as needed, to implement this Ordinance. BMPs may be implemented through a wastewater discharge permit, other control document, order, or other notice to the user. BMPs are Pretreatment Standards and enforceable under this Ordinance.

2.5 Right of Revision

The Board reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

2.6 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Board may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

2.7 Discretionary Action

Where circumstances so warrant the Board may agree to arrangements with users which modify the terms of this ordinance if that arrangement complies with the NPDES permit of the Board and all other Federal and State laws and regulations governing the operation of the wastewater treatment plant.

SECTION 3—PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

In the event that a user is exceeding the limitations as set forth in Section 2, the Board shall direct the user causing the discharge of any such materials to cease and desist from those activities or operations which cause a violation of established discharge standards or to provide wastewater treatment as necessary to comply with this ordinance and to achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2 of this ordinance within the time limitations specified by EPA, the State, or the Board, whichever is more stringent.

Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Board for review, and shall be acceptable to the Board before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Board under the provisions of this ordinance.

Any facility classified as an industrial treatment plant per 327 IAC 5-22 shall meet the operator certification requirements in accordance with 327 IAC 5-22, as amended.

3.2 Additional Pretreatment Measures

A. Whenever deemed necessary, the Board may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from other facility wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.

B. The Board may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

C. Grease, oil, and sand interceptors shall be provided for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; unless a waiver is granted by the Board (normally not applicable to residential dwellings). All interception units shall be of a type and capacity approved by the Board and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at their expense. Such

interceptors shall be maintained such that the user does not violate the Pretreatment Standards in this Ordinance.

D. Waste from garbage grinders shall not be discharged into a sanitary sewer except:

(1) Wastes generated in preparation of food normally consumed on the premises, or

(2) Where the user has obtained authorization for that specific use from the Board, and agreed to undertake whatever self-monitoring is required to enable the Board to equitably determine the user charges based on the waste constituents and characteristics.

These grinders shall shred the waste so that all particles shall be carried freely under normal flow conditions prevailing in the sanitary sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials or garden refuse.

E. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Discharge Control Plans

Each User shall provide protection from accidental discharge of prohibited materials or other regulated wastes described in Section 2 of this ordinance. Those facilities shall be provided and maintained at the User's expense.

The Board shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Board may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Board may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

A. Description of discharge practices, including nonroutine batch discharges;

B. Description of stored chemicals;

C. Procedures for immediately notifying the Board of any accidental or Slug Discharge, as required by Section 6.6 of this ordinance; and

D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

A. Hauled wastewater may be introduced into the POTW only at locations designated by the Board, and at such times as are established by the Board. Such wastewater shall not violate Section 2 of this ordinance or any other requirements established by the Board.

B. The Board may require wastewater haulers to obtain wastewater discharge permits. The Board may also require generators of hauled wastewater to obtain wastewater discharge permits. The Board also may limit the volume discharged or prohibit the disposal of hauled wastewater. The discharge of hauled wastewater is subject to all other requirements of this ordinance.

C. The Board may collect samples of each hauled load to ensure compliance with applicable Standards. The Board may require the wastewater hauler to provide a waste analysis of any load prior to discharge. No load may be discharged without prior consent of the Board.

D. Wastewater haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the wastewater hauler, permit number, names and addresses of sources of wastewater, and volume and type of waste. Industrial waste haulers shall also identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

E. Wastewater haulers of sewage disposal system wastewater shall meet the requirements of 327 IAC 7, as amended, if more stringent than requirements of this ordinance.

3.5 Regulation of Waste Received from Other Jurisdictions

A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Board shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A above, the Board shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as the Board may deem necessary.

C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Board's ordinance or Local Limits;

(2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Board; and which of these activities will be conducted jointly by the contributing municipality and the Board;

(4) A requirement for the contributing municipality to provide the Board with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the Board access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Board; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

SECTION 4—WASTEWATER DISCHARGE PERMITS

4.1 Wastewater Analysis

When requested by the Board, a User must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Board is authorized to prepare a form for this purpose and may periodically require Users to update this information.

4.2 Wastewater Discharge Permit Requirement

Based upon a review of the information provided in Section 4.1, the Board shall determine whether or not a wastewater discharge permit must be issued or revised and what type of wastewater discharge permit or control document is appropriate for the User.

A. No SIU shall discharge wastewater into the POTW without first obtaining a SIU wastewater discharge permit from the Board.

B. The Board may require other Users to obtain non-SIU or other wastewater discharge permits as necessary or issue other control documents to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of a wastewater discharge permit or other control document shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

D. Any User required to obtain a wastewater discharge permit or other control document who proposes to begin or recommence discharging into the POTW must obtain such permit or control document prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 4.3 of this ordinance, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

E. Any User required to obtain a wastewater discharge permit or other control document who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the Board for a wastewater discharge permit in accordance with Section 4.3 of this ordinance, and shall not cause or allow discharges to the POTW to continue after one-hundred eighty (180) days of the effective date of this ordinance except in accordance with a wastewater discharge permit or other control document issued by the Board.

4.3 Wastewater Discharge Permit Application Contents

A. All SIUs must submit a permit application. Other Users may be required to submit a permit application. The Board may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

a. The name and address of the facility, including the name of the operator and owner.
b. Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
d. Type and amount of raw materials processed (average and maximum per day);
e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2 B (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Board, of regulated pollutants in the discharge from each regulated process.

c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 7.3 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Board or the applicable Standards to determine compliance with the Standard.
e. Sampling must be performed in accordance with procedures set out in Section 7.4 of this ordinance.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 6.4 B [40 CFR 403.12(e)(2)].

(9) Any other information as may be deemed necessary by the Board to evaluate the permit application.

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

4.4 Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 6.14 A.

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Board prior to or together with any reports to be signed by an Authorized Representative.

C. A facility determined to be a Non-Significant Categorical Industrial User by the Board pursuant to 1.4 LL (3) must annually submit the signed certification statement in Section 6.14 B.

4.5 Wastewater Discharge Permit Decisions

The Board will evaluate the data furnished by the User and may require additional information. The Board may deny any application for a wastewater discharge permit.

SECTION 5—WASTEWATER DISCHARGE PERMIT ISSUANCE

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Board. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Board to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. SIU wastewater discharge permits must contain the following. Other wastewater discharge permits may contain the following:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Board in accordance with Section 5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

(4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 6.4 B.

(6) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance

schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(7) Requirements to control Slug Discharge, if determined by the Board to be necessary.

(8) Any grant of the monitoring waiver by the Board (Section 6.4 B) must be included as a condition in the CIU's permit.

B. SIU and other wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and

(8) Other conditions as deemed appropriate by the Board to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

5.3 Permit Issuance Process

A. Public Notification. The Board will publish, in a newspaper of general circulation that provides meaningful public notice with the jurisdiction served by the POTW, a notice to

issue a pretreatment wastewater discharge permit at least 30 days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.

B. Appeals. Any person, including the User, may petition the Board to reconsider the terms of a wastewater discharge permit within fifteen (15) days of notice of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(4) If the Board fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a SIU wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Grant Circuit or Superior Court, Grant County, Indiana within thirty (30) days.

5.4 Permit Modification

A. The Board may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;

(2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the POTW, Utility personnel, the receiving waters, or the POTW's beneficial sludge use;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 5.5.

5.5 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Board and the Board approves the wastewater discharge permit transfer. The notice to the Board must include a written certification by the new owner or operator which:

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

B. Identifies the specific date on which the transfer is to occur; and

C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

5.6 Wastewater Discharge Permit Revocation

The Board may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. Failure to notify the Board of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to the Board of changed conditions pursuant to Section 6.6 of this ordinance;

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self-monitoring reports and certification statements;

E. Tampering with monitoring equipment;

F. Refusing to allow the Board timely access to the facility premises and records;

G. Failure to meet effluent limitations;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedules;

K. Failure to complete a wastewater survey or the wastewater discharge permit application;

L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a User are void upon the issuance of a new wastewater discharge permit to that User.

5.7 Wastewater Discharge Permit Reissuance

A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.3 of this ordinance, a minimum of ninety (90) days prior to the expiration of the User's existing wastewater discharge permit.

SECTION 6—REPORTING REQUIREMENTS

6.1 CIU and NSCIU Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing CIUs currently discharging to or scheduled to discharge to the POTW shall submit to the Board a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become CIUs subsequent to the promulgation of an applicable categorical Standard, shall submit to the Board a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. CIUs described above shall submit the information set forth below.

(1) All information required in Section 4.3A (1) (a), Section 4.3A (2), Section 4.3A (3) (a), and Section 4.3A (6).

(2) Measurement of pollutants.

a. The CIU shall provide the information required in Section 4.3 A (7) (a) through (d).
b. The CIU shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the CIU should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Board;
d. Sampling and analysis shall be performed in accordance with Section 7.3 and 7.4;
e. The Board may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the CIU's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.14 A of this ordinance and signed by an Authorized Representative.

6.2 CIU Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(4) of this ordinance:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the CIU to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The CIU shall submit a progress report to the Board no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the CIU to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to the Board.

6.3 CIU Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any CIU subject to such Pretreatment Standards and Requirements shall submit to the Board a report containing the information described in Section 4.3A(6) and (7) and 6.1(B)(2) of this ordinance. For CIUs subject to equivalent mass limits established in accordance with the procedures in Section 2.2, this report shall contain a reasonable measure of the CIU's long-term production rate. For all other CIUs subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the CIU's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance. All sampling will be done in conformance with Section 7.

6.4 SIU Periodic Compliance Reports

A. All SIUs must, at a frequency determined by the Board submit no less than twice per year (June and December, or on dates specified) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the SIU must submit documentation required by the Board or the Pretreatment Standard necessary to determine the compliance status of the SIU.

B. The Board may authorize a CIU to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the CIU has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the CIU. [see 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the SIU wastewater discharge permit, but in no case longer than 5 years. The CIU must submit a new request for the waiver before the waiver can be granted for each subsequent SIU wastewater discharge permit.

(3) In making a demonstration that a pollutant is not present, the CIU must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 1.4C, and include the certification statement in 6.14 A (40 CFR 403.6(a)(2)(ii)).

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Board must be included as a condition in the CIU's permit. The reasons supporting the waiver and any information submitted by the CIU in its request for the waiver must be maintained by the Board for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the CIU's permit by the Board, the CIU must certify on each report with the statement in Section 6.14 C below, that there has been no increase in the pollutant in its wastestream due to activities of the CIU.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the CIU's operations, the CIU must immediately: Comply with the monitoring requirements of Section 6.4 A, or other more frequent monitoring requirements imposed by the Board, and notify the Board.

(9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

C. All SIU periodic compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance.

D. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

E. If a SIU subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Board, using the procedures prescribed in Section 7.4 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Non-CIU Compliance Schedule Reports

Any non-CIU which is not in compliance with this ordinance shall develop a compliance schedule by which time the user shall meet the discharge prohibitions or requirements in Section 2 of this ordinance. The schedule should contain increments of progress, which correspond to specific dates for their completion. All users subject to these conditions shall submit a progress report to the Board no later than fourteen (14) days following each date in the compliance schedule. This report shall state if it complies with the increment of progress to be met on that date, the reason for delay if the date was not met, and the steps being taken to return to compliance. In no event shall more than six (6) months elapse between progress reports.

6.6 Reports of Changed Conditions

Each User must notify the Board of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

A. The Board may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

B. The Board may issue a wastewater discharge permit or modify a wastewater discharge permit in response to changed conditions or anticipated changed conditions.

6.7 Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, any User shall immediately telephone and notify the Board of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Within five (5) days following such discharge, the User shall, unless waived by the Board, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification

relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

D. SIUs are also required to notify the Board immediately of any changes at its facility affecting the potential for a Slug Discharge.

6.8 Reports from Non-SIUs

All Users not required to obtain a SIU wastewater discharge permit shall provide appropriate reports to the Board as the Board may require.

6.9 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Board within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Board within thirty (30) days after becoming aware of the violation. Resampling by the User is not required if the Board performs sampling at the User's facility at least once a month, or if the Board performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Board receives the results of this sampling, or if the Board has performed the sampling and analysis in lieu of the User. If the Board performed the sampling and analysis in lieu of the User, the Board will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis.

6.10 Notification of the Discharge of Hazardous Waste

A. Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous

constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. The User shall notify the POTW within 24 hours of becoming aware of the discharge. All notifications to EPA and the State must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.6 of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.

B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

C. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Board, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

6.11 Date of Receipt of Reports

Mailed, written reports will be deemed to have been submitted on the date postmarked. For written reports which are faxed, scanned and emailed, or hand-delivered, the date of receipt of the report shall govern.

6.12 Electronic Reporting

Upon approval, Users sending electronic (digital) documents to the Board to satisfy the requirements of this Section must meet the requirements or future requirements of EPA and Indiana regulations.

6.13 Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 2.4 C. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; copies of completed chain-of-custody forms; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Board, or where the User has been specifically notified of a longer retention period by the Board.

6.14 Certification Statements

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 4.4; SIUs submitting baseline monitoring reports under Section 6.1 B (5); CIUs submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3; SIUs submitting periodic compliance reports required by Section 6.4 A–D, CIUs submitting an initial request to forego sampling of a pollutant on the basis of Section 6.4B(4), and non-SIUs submitting reports required by Section 6.8. The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 C:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

B. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the Board pursuant to 1.4 II(3) and 4.4 C must annually submit the following certification statement signed in accordance with the signatory requirements in 1.4 C. This certification must accompany an alternative report required by the Board:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.4 II (3);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

_____

_____

C. Certification of Pollutants Not Present - Users that have an approved monitoring waiver based on Section 6.4 B must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 6.4.A.

SECTION 7—SAMPLING AND COMPLIANCE MONITORING

7.1 Representative Sample

All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

7.2 Control Manhole

All Users who discharge pollutants other than sewage to the POTW and who make a new connection or modify an existing connection to the POTW shall install a Control Manhole unless the Board determines that a Control Manhole is not required. In addition, the Board shall have the authority to require any User, at the User's expense, to install a Control Manhole if the Board determines that such a manhole is necessary to protect the POTW.

7.3 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Board or other parties approved by EPA.

7.4 Sample Collection

A. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Board. Where time-proportional composite sampling or grab sampling is authorized by the Board, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be

composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Board, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Board may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the SIU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

7.5 Right of Entry: Inspection and Sampling

The Board shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Board ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Board shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Board shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct independent sampling and/or metering of the User's operations.

C. The Board may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy. When the monitoring facility is constructed in the public right-of-way or easement, in an unobstructed location, the location of the monitoring

facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis. Whether constructed on public or private property, the monitoring facilities should be provided in accordance with the Board's requirements and all applicable local construction standards and specifications.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Board and shall not be replaced. The costs of clearing such access shall be born by the User.

E. Unreasonable delays in allowing the Board access to the User's premises shall be a violation of this ordinance.

7.6 Search Warrants

If the Board has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Board designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Board may seek issuance of a search warrant from the Grant Circuit or Superior Court, Grant County, Indiana.

SECTION 8—CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Board's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Board, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Board shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in SNC with applicable Pretreatment Standards and Requirements. The term SNC shall be applicable to all SIUs (or any other User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for TSS, BOD, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Board determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Board's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in any wastewater discharge permit, other control document, or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s), which may include a violation of Best Management Practices, which the Board determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may serve upon that User a written Notice of Violation. Within ten (10) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Board. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Board to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

The Board may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing

The Board may order a User which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Board and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten

(10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 1.4 C and required by Section 4.7 A. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

10.4 Compliance Orders

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User. If the User does not come into compliance within the time provided, sewer service may be discontinued.

10.5 Cease and Desist Orders

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Board may issue an order to the User directing it to cease and desist all such violations and directing the User to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.6 Administrative Fines

A. When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement, a fine may be assessed in accordance with Board policy. The amount of the fine may

be determined on an individual basis at the Board's discretion and in an amount not to exceed the maximum fine allowed under State Law. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Administrative fines are punitive in nature and are assessed to recapture the full or partial economic benefit of noncompliance and to deter future violations.

B. Unpaid charges, fines, and penalties shall be assessed in accordance with current Board policy. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Board to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Board may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Board may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.7 Emergency Suspensions

The Board may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Board may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Board may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Board may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Board that the period of endangerment has passed, unless the termination proceedings in Section 10.7 of this ordinance are initiated against the User.

B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Board prior to the date of any show cause or termination hearing under Sections 10.3 or 10.7 of this ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

10.8 Termination of Discharge

In addition to the provisions in Section 5.6 of this ordinance, any User who violates the following conditions is subject to discharge termination:

A. Violation of wastewater discharge permit or other control document conditions;

B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

F. Violation of the Pretreatment Standards in Section 2 of this ordinance.

G. Failure to comply with administrative enforcement remedies in this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Board shall not be a bar to, or a prerequisite for, taking any other action against the User.

10.9 Appeals

Any user affected by any decision, action or determination, including cease and desist orders, made by the Board, interpreting or implementing the provisions of this section or in any authorization issued herein, may file with the Board a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

If the ruling made by the Board is unsatisfactory to the person requesting reconsideration, he or she may, within ten (10) days after notification of Board action, file a written appeal to

the Board. The written appeal shall be heard by the Board within thirty (30) days from the date of filing. The Board shall make a final ruling on the appeal within ten (10) days of the close of the meeting. The Board's decision, action, or determination shall remain in effect during that period of reconsideration.

SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may petition the Grant Circuit or Superior Court, Grant County, Indiana through the Board's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Civil Penalties

A. A User who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the Board for a maximum civil penalty of $2,500 for any first offense, and $7,500.00 for any second offense per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. The Board may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Board.

C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.3 Criminal Prosecution

A. A User who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be referred to the State of Indiana or the EPA for legal action and, upon conviction, be guilty of a misdemeanor, punishable by the maximum fine or imprisonment, or both, as allowed by EPA or the State of Indiana.

B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall be referred to the State of Indiana or EPA for legal action and, upon conviction, be subject to the maximum penalty or be subject to the maximum imprisonment, or both, as allowed by the State of Indiana or EPA. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, other control document, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall be referred to the State of Indiana or the EPA for legal action and, upon conviction, be punished by the maximum fine or imprisonment, or both, as allowed by EPA or the State of Indiana.

D. In the event of a second conviction, a User shall be punished by the maximum fine or imprisonment, or both, as allowed by EPA or the State of Indiana.

11.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Board may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Board's enforcement response plan. However, the Board may take other action against any User when the circumstances warrant. Further, the Board is empowered to take more than one enforcement action against any noncompliant User.

SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Payment of Outstanding Fees and Penalties

The Board may decline to issue or reissue a wastewater discharge permit or other control document to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous wastewater discharge permit, other control document, or order issued hereunder.

12.2 Water Supply Severance

Whenever a User has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

12.3 Public Nuisances

A violation of any provision of this ordinance, a wastewater discharge permit, other control document, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Board. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the Board for any costs incurred in removing, abating, or remedying said nuisance.

12.4 Contractor Listing

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the Board. Existing contracts for the sale of goods or services to the Board held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Board.

12.5 Cost Recovery

When a discharge of wastes causes an obstruction, damage, or any other impairment to the POTW, the Board may assess a charge against the user for the work required to clean

or repair the facility and add that charge to the user's charges and fees. The User may be responsible for paying the following (but not limited to) costs:

1. Cost of mileage and labor incurred in detecting and correcting the violation;
2. Laboratory analysis costs associated with detecting and correcting the violation;
3. Additional treatment costs caused by the violation or associated with detecting and correcting the violation;
4. Costs of any additional equipment acquired or expended by the Board for detecting or correcting the violation;
5. Repair and/or replacement of any part of the sewerage system damaged by the violation;
6. Any liability, damages, fines or penalties incurred by the Board as a result of the violation;
7. Any and all expenses of outside professionals to include, but not limited to, engineers, scientists, and/or legal counsel; and
8. Other costs associated with the detection and correction of the violations.

SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 CIU Upset

A. For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the CIU. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.

C. A CIU who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the CIU can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The CIU has submitted the following information to the Board within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

(a) A description of the indirect discharge and cause of noncompliance;

(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the CIU seeking to establish the occurrence of an upset shall have the burden of proof.

E. CIUs shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

F. CIUs shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this ordinance or the specific prohibitions in Sections 2.1(B)(3) through (7) and (9) through (17) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the Board was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

13.3 Bypass

A. For the purposes of this Section,

(1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

C. Bypass Notifications

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Board, at least ten (10) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the Board of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Board may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

(1) Bypass is prohibited, and the Board may take an enforcement action against a User for a bypass, unless

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or

maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The User submitted notices as required under paragraph (C) of this section.

(2) The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

SECTION 14—SURCHARGE SAMPLING AND VOLUME DETERMINATIONS

14.1 Sampling and Testing for Surcharges or User Charges

The discharged sewage shall be sampled during each surcharge billing period for a minimum of a one (1) day period, i.e., twenty-four (24) hours, by means of a composite sample. An extended sampling period of up to one (1) week, i.e., seven (7) continuous days, or reduction may be requested to enable the gathering of a sample representative of a business' sewage. The extension or reduction of the sampling period beyond the initial one (1) day sampling period may be requested by either the sewer user involved or the Board. If an extended sampling period is requested, the parameter values used to calculate the surcharge shall be the arithmetical average of the individual values. If a user has multiple discharges of sewage, each discharge shall be sampled according to quality. The volume of each discharge shall be determined by actual measurement or by means of process usage. If significant process changes are made to affect quality of any discharge, resampling may be requested by either the user involved or the Board.

The sample shall be measured for the following parameters: Carbonaceous Biochemical oxygen demand (CBOD) total suspended solids (TSS) and/or phosphorus. These tests shall be conducted in accordance with the Code of Federal Regulations, Title 40, Part 136, Guideline Establishing Test Procedures for the Analysis of Pollutants.

14.2 Deposit

The Utility may require from each applicant for wastewater service a cash deposit of $60.00 as a guarantee against the non-payment of bills for service. However, if the applicant is an owner of real property whose credit is approved by the Utility, the deposit may be waived. If the customer's bill remains unpaid for a period of five (5) days after the date of the final

bill or the date of discontinuance of service, the amount of that bill shall be deducted from the deposit and the balance, if any, will be remitted to the depositor.

14.3 Wastewater Volume Determination

A. Metered Water Supply. User charges and fees shall be based upon the total amount of water used from all sources unless, in the opinion of the Board, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources shall be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the Board.

B. Metered Wastewater Volume and Metered Diversions. For users where, in the opinion of the board, a significant portion of the water received from any material sources does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the user charges and fees shall be applied against the volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water shall be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the Board and at the user's expense. These meters may measure either the amount of sewage discharge or the amount of water diverted. These meters shall be tested for accuracy at the expense of the user when deemed necessary by the Board.

C Estimated Wastewater Volume.

(1) Users without source meters. For users where, in the opinion of the Board, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the Board. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.

(2) Users with source meters. For users who, in the opinion of the Board, divert a significant portion of their flow from a sanitary sewer, the user charges may be based upon:

(a) direct measurement of the diverted flow or

(b) an estimate of the volume prepared by the user provided the user obtains Wastewater Discharge Authorization and pays the applicable user charges and fees. The estimate shall include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

SECTION 15—MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges and Fees

The Board may adopt reasonable fees for reimbursement of costs of setting up and operating the Board's Pretreatment Program.

15.2 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 16 - EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

GENERAL ORDINANCE No. 4 - 2016

AN ORDINANCE AMENDING GENERAL ORDINANCE 24-2010, TO REPEAL THE TOWN OF SWEETSER REGIONAL CHARGES AND TO AMEND EXCESSIVE STRENGTH WASTE SURCHARGE CALCULATION PROCEDURES

WHEREAS, the Town of Sweetser is no longer connected to the City of Marion sanitary sewer system; and

WHEREAS, listed surcharge levels and rates are out of date and procedures are needed to establish and maintain current surcharge levels and rates

NOW THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That General Ordinance 24-2010 5) Town of Sweetser Regional Charges shall be repealed.

SECTION II

That General Ordinance 24-2010 6) Excessive Strength Surcharge shall be deleted in its entirety and replaced with the following:

6) Excessive Strength Surcharge

Each user discharging waste into the wastewater collection system shall be subject to an excessive strength surcharge in addition to other sewage service charges imposed by this ordinance. Wastewater exceeding the most recently calculated Local Limits Background concentration for Carbonaceous Biochemical Oxygen Demand (CBOD), Total Suspended Solids (TSS), and Phosphorous shall be determined to be an excessive strength waste.

Computation of Surcharge

The surcharge shall be determined as follows:

Excessive Strength Waste Surcharge in $ = (UC – BC) x UF x 0.006239 x SR

Where,

UC = the constituent concentration in mg/l in the User's discharge from samples collected during the surcharge period.

BC = the background concentration in mg/l for the constituent from the most recent local limits evaluation.

UF = the User's billing sewage volume in units of hundred cubic feet or CCF for the billing or surcharge period.

0.006239 = converts mg/l and CCF to pounds of constituent.

SR = the most recently calculated surcharge rate in $/pound for the constituent.

Rates of Surcharge

The rate of surcharge for each of the aforementioned constituents shall be established by the Board based on the costs for removing the constituents from the wastewater treatment plant influent. As deemed necessary, the Board may evaluate the surcharge rates to determine if the current rates are adequate or should be changed.

SECTION III

All other provisions of General Ordinance 24-2010 and all other related Ordinances, not expressly inconsistent herewith, shall remain and be in full force and effect.

SECTION IV

This Ordinance shall be in full force and effect from and after its passage by the Common Council and signing of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 17 day of May, 2016.

Brad ~~Ed~~Zadder ~~James Brunner~~
Vice- President, Marion Common Council

ATTEST:
Kathleen Kiley, City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 18 day of May, 2016.

Kathleen Kiley, City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 18th day of May, 2016.

Mayor, Jess Alumbaugh

GENERAL ORDINANCE NO. 24-2010 AS AMENDED

AN ORDINANCE AMENDING GENERAL ORDINANCE NO. 11-2010 AND ALL OTHER ORDINANCES IN CONFLICT HEREWITH, FIXING A NEW SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM USERS AND OWNERS OF PROPERTY SERVED BY THE WASTEWATER UTILITY OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH.

WHEREAS, The City of Marion, Indiana has heretofore constructed and has in operation a wastewater collection system and treatment plant for the purpose of collecting and treating sewage wastewater and conveying the same away from the premises where produced; and,

WHEREAS, The City of Marion, Indiana, is revising a Long Term Control Plan (LTCP); to expand and improve its wastewater collection system and treatment plant to be compliant with mandated federal regulations and policies; and

WHEREAS, The City of Marion has conducted a financial study and determined that the existing sewage rates and charges are not sufficient for the costs of operation, maintenance, capital improvements, the LTCP and debt service; and

WHEREAS, Indiana Code 36-9-23-25 and 36-9-23-26 and the acts amendatory and supplemental thereto, require that the rates and charges to be collected for the use of and the service rendered by such sewage wastewater works be fixed by ordinance, finally adopted after due notice and public hearing,

WHEREAS, Revisions of the LTCP being completed by CDM Engineers of Indianapolis, Indiana, have been tendered to the Utility Service Board setting forth certain extensions and improvements needed to improve service provided by the sewage works to patrons of the system and for the long-term benefit of the City of Marion, Indiana.

NOW, THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That General Ordinance No. 11-2010 be amended to set the schedule of rates and charges to be [illegible] property and users served by the

Section 1. For the use of and the service rendered by said wastewater utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates, as the same is measured by the water meter therein in use, except as herein otherwise provided. That the following sewage rates and charges be, and the same are hereby established for the use of and the service rendered by said wastewater utility of the City of Marion, Indiana, based on the amount of water used during each billing period on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

(b) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used each billing period:

1) Monthly Volume Charges – per 100 cubic feet

	Current	2011	2012	2013	2014
Domestic Users:	$ 1.260	$2.104	$2.600	$2.831	$3.062
Manufacturing:	$ 1.130	$1.887	$2.331	$2.538	$2.745
	2015	2016	2017	2018	2019
Domestic Users:	$3.293	$3.524	$3.755	$3.986	$4.217
Manufacturing:	$2.952	$3.159	$3.366	$3.573	$3.780
	2020	2021	2022	2023	2024
Domestic Users:	$4.448	$4.679	$4.910	$5.141	$5.372
Manufacturing:	$3.987	$4.194	$4.401	$4.608	$4.815
	2025	2026 and thereafter			
Domestic Users:	$5.603	$5.834			
Manufacturing:	$5.022	$5.229			

2) Billing Charge – applies to all users per bill

Current	2011	2012	2013	2014
$2.092	$3.494	$4.316	$4.699	$5.082
2015	2016	2017	2018	2019
$5.465	$5.848	$6.231	$6.614	$6.997
2020	2021	2022	2023	2024
$7.380	$7.763	$8.146	$8.529	$8.912
2025	2026 and thereafter			
$9.295	$9.678			

3) Minimum User Charges – per month: Each user shall pay a minimum monthly charge in accordance with the size of meter installed for which the user will be entitled to the quantity of water set out in the schedule of rates below. The monthly metered charge shall be the larger of the minimum user charges of subparagraph (3) or the sum of the monthly volume and billing charges of subparagraphs (1) and (2); respectively.
(See Footnote [1.] Below)

Cubic Feet Per Hundred	Meter Size	Current	2011	2012	2013	2014
3	5/8 inch	$ 5.67	$ 9.47	$ 11.70	$ 12.74	$ 13.78
5	3/4 inch	8.19	13.68	16.90	18.40	19.90
10	1 inch	14.74	24.62	30.41	33.11	35.81
25	1 ½ inch	32.95	55.03	67.99	74.03	80.07
45	2 inch	58.34	97.43	120.37	131.06	141.75
103	3 inch	131.42	219.47	271.16	295.24	319.33
184	4 inch	233.60	390.11	481.99	524.79	567.61
416	6 inch	525.80	878.09	1,084.88	1,181.22	1,277.61
740	8 inch	934.67	1560.90	1,928.51	2,099.76	2,271.10

Cubic Feet Per Hundred	Meter Size	2015	2016	2017	2018	2019
3	5/8 inch	$ 14.82	$ 15.86	$ 16.90	$ 17.94	$ 18.98
5	3/4 inch	21.40	22.90	24.40	25.90	27.40
10	1 inch	38.51	41.21	43.91	46.61	49.31
25	1 ½ inch	86.11	92.15	98.19	104.23	110.26
45	2 inch	152.44	163.13	173.82	184.51	195.19
103	3 inch	343.41	367.48	391.55	415.63	439.69
184	4 inch	610.41	653.20	695.98	738.78	781.56
416	6 inch	1,373.94	1,470.25	1,566.55	1,662.89	1,759.17
740	8 inch	2,442.34	2,613.55	2,784.74	2,956.00	3,127.15

[1.] *See attached "Manufacturing Usage Equivalent Chart" adopted by the MUSB to correct a deficiency in the Utility's billing software.*

Cubic Feet Per Hundred	Meter Size	2020	2021	2022	2023	2024
3	5/8 inch	$ 20.02	$ 21.06	$ 22.10	$ 23.14	$ 24.18
5	3/4 inch	28.90	30.40	31.90	33.40	34.90
10	1 inch	52.01	54.71	57.41	60.11	62.81
25	1 ½ inch	116.30	122.34	128.38	134.41	140.45
45	2 inch	205.89	216.58	227.28	237.96	248.64
103	3 inch	463.79	487.86	511.96	536.02	560.09
184	4 inch	824.39	867.18	910.02	952.79	995.57
416	6 inch	1,855.57	1,951.87	2,048.29	2,144.56	2,240.85
740	8 inch	3,298.52	3,469.71	3,641.11	3,812.24	3,983.41

Cubic Feet Per Hundred	Meter Size	2025	2026 and Thereafter
3	5/8 inch	$ 25.22	$ 26.26
5	3/4 inch	36.40	37.90
10	1 inch	65.51	68.21
25	1 ½ inch	146.49	152.53
45	2 inch	259.33	270.01
103	3 inch	584.17	608.24
184	4 inch	1,038.38	1,081.16
416	6 inch	2,337.21	2,433.50
740	8 inch	4,154.70	4,325.87

4) Unmetered User Flat Charges – per month
Domestic Users:

	Current	2011	2012	2013	2014
Single Family Residence	$15.12	$25.25	$31.20	$33.97	$36.74

2015	2016	2017	2018	2019
$39.51	$42.28	$45.05	$47.82	$50.59

2020	2021	2022	2023	2024
$53.36	$56.13	$58.90	$61.67	$64.44

2025	2026 and thereafter
$67.21	$69.98

Multi-Family Residence	To Be Estimated by Utility
Manufacturing User	To Be Estimated by Utility

Estimates of monthly flat charges for multi-family residences shall be based on the number of family units accommodated by the system multiplied by the single family residence monthly

charge. Estimates of monthly flat charges for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes used and other pertinent sewer use indicators or based upon outfall measurements where available.

5) Regional Contract Charges

In the event the City consummates a contract to service as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for appropriate, lawful unit charges. The charge with respect to the current agreement with the Town of Sweetser, Indiana, is as follows:

Schedule of Proposed Rates

	Current	2011	2012	2013	2014
Regional Contract Charges – per 100 cubic feet	$0.722	$1.206	$1.489	$1.621	$1.753
	2015	2016	2017	2018	2019
	$1.885	$2.017	$2.149	$2.281	$2.413
	2020	2021	2022	2023	2024
	$2.545	$2.677	$2.809	$2.941	$3.073
	2025	2026 and thereafter			
	$3.205	$3.337			

In addition to the above volume charges, each contract customer shall pay the following charges:

Billing Charge	Current	2011	2012	2013	2014
	$2.000	$3.494	$4.316	$4.699	$5.082
	2015	2016	2017	2018	2019
	$5.465	$5.848	$6.231	$6.614	$6.997
	2020	2021	2022	2023	2024
	$7.380	$7.763	$8.146	$8.529	$8.912
	2025	2026 and thereafter			
	$9.295	$9.678			

Quarterly Surveillance Charge	Current	2011	2012	2013	2014
	$157.50	$263.03	$324.97	$353.83	$382.70
	2015	2016	2017	2018	2019
	$411.56	$440.41	$469.26	$498.12	$526.96
	2020	2021	2022	2023	2024
	$555.84	$584.69	$613.57	$642.41	$671.25
	2025	2026 and thereafter			
	$700.11	$728.95			

6) Excessive Strength Surcharge

Each user discharging waste into the wastewater collection system shall be subject to an excessive strength surcharge in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such waste are in concentrations greater than as follows:

a) Biochemical oxygen demand of 200 milligrams per liter.

b) Chemical oxygen demand of 100 milligrams per liter.

c) Suspended solids content of 250 milligrams per liter.

d) Phosphorous concentration of 10 milligrams per liter.

Computation of Surcharge

The surcharge shall be determined as follows:

a) The excess of pounds of COD/BOD (whichever is greater than the minimum stated above), suspended solids and/or phosphorus by first multiplying the user's billing sewage volume measured in units of 100 the current billing period by the factor 0.006238 and then the concentrations measured in milligrams per liter of the Phosphorus, COD, BOD and/or suspended solids respectively in the user's sewage and (b) the allowed concentrations set for above. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate surcharges set out hereafter.

Rates of Surcharge

The monthly rate of surcharge for each of the aforementioned constituents shall be as follows:

		Current
a)	For biochemical oxygen demand or chemical oxygen demand	$0.168 per lb

b)	For suspended solids	$0.168 per lb
c)	For phosphorus removal in excess of 10 ppm	$1.593 per lb

7) Waste Evaluation Charges

All users discharging wastes into the system requiring continuing surveillance, sampling and analysis shall be subject to a quarterly fixed charge to cover the costs of such services in the amount of $234.68 per discharge point. The analytical fees shall be as established by the Board.

8) Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by the applicable sections of the Marion Municipal Code, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 2044(1), Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35.928-1, 35.928-2 and 35.935-13.

SECTION II

That all other provisions of General Ordinance No. 11-2010 and to all other related General Ordinances not expressly inconsistent herewith, shall remain and be in full force and effect. The rates and charges prescribed in General Ordinance No. 11-2010, shall remain in effect until the rates and charges herein provided shall become effective.

SECTION III

That the above and foregoing rates and charges shall become effective on the first day of the first month following passage, approval and proper promulgation thereof, and remain in effect until changes are provided by law.

SECTION IV

That the Utility Service Board shall quarterly report to the Common Council its capital expenditures. Also, upon retirement of all revenue bonds supported by the revenues produced by the rates and charges adopted herein, the Utility Service Board shall cause a study to be undertaken to determine the feasibility of reducing the rates and charges based on the then existing pro forma revenue requirements.

SECTION V

This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 15 day of February, 2011.

Presiding Officer

Attest:
City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana this 16 day of February, 2011.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana this 17 day of February, 2011.

Mayor, City of Marion, Indiana

INDUSTRIAL/MANUFACTURING
MINIMUM USAGE EQUIVALENT CHART

At a regularly scheduled meeting on April 7, 2011, the Marion Utility Service Board approved a policy to apply a Manufacturing Minimum Usage Equivalent in order to comply and meet the intent of General Ordinance No. 24-2010 as amended, Section 1(b)3, Minimum User Charges. The policy was required to correct a deficiency in the utility's billing software that was limited in the calculation of the Minimum User Charge. An equivalent usage was developed for the manufacturing category to correct the billing calculation. The Equivalent Minimum Usages are listed below:

Minimum Usage (hundred cubic feet)	Manufacturing Minimum Usage Equivalent
3	4
5	6
10	12
25	28
45	50
103	115
184	205
416	464
740	826

Policy adopted by the Marion Utility Service Board
April 7, 2011

ATTEST: Ruthanna Nestleroad
Ruthanna Nestleroad, MUSB Secretary

WASTEWATER REGULATIONS INDEX

GENERAL ORDINANCE NO. 36-1998

Abatement 47
- Public Nuisance (7.01) 47
- Legal Action (7.02) 47
- Damage to Facilities (7.03) 47
- Civil or Criminal Penalties (7.04) 47
- Falsifying of Information (7.05) 48
- Termination of Service (7.06) 48

Administration 23
- Compliance Schedule Reports (4.01) 23
- Wastewater Discharge Authorization (4.02) 28
- Monitoring Facilities (4.03) 33
- Inspection and Sampling (4.04) 34
- Pretreatment (4.05) 36
- Protection from Accidental Discharge (4.06) 36
- Confidential Information (4.07) 38
- Discretionary Action (4.08) 39
- Record Retention (4.09) 39
- Notification of Change of Discharge (4.10) 39
- Hazardous Wastes (4.11) 39

Billing Charge 3
Computation of Surcharge 5
Contribution to General Fund 7
Deposit 6
Enforcement 42
- Accidental Discharge (6.01) 42
- Issuance of Cease and Desist Orders (6.01) 45
- Submission of Time Schedule (6.03) 45

Excessive Strength Surcharge 4
Minimum User Charges 3
Monthly Volume Charges 2
Other Provisions 6
Rates of Surcharge 5
Regional Contract Charges 4

Sewer Use Ordinance 7
- Definitions (1.02) 8
- Dilution (2.09) 20
- Industry Holding Tank Waste (2.07) 16
- Limitations on Radioactive Wastes (2.04) 15
- Limitations on the Use of Garbage Grinders (2.05) 15
- Limitations on Wastewater Strength (2.08) 17
- Point of Discharge (2.06) 16
- Prohibited Practices (2.01) 13
- Purpose & Policy (1.01) 7
- Prohibition on Unpolluted Water (2.03) 15
- Requirements (2.02) 14
  - Combined Sewers (2.02.4) 15
  - New Building Inflow (2.02.3) 15
  - New Construction (2.02.2) 14
  - Stored Wastes (2.01.1) 14
- Rules on File (2.10) 20

Unmetered User Flat Charges 3

Waste Evaluation Charges 6
Wastewater User Charges and Fees 40
Adjustment of Charges Based on Strength & Character of Sewage (5.01) 40
Wastewater Volume Determination 21
Estimated Wastewater Volume (3.03) 22
Metered Wastewater Volume and Metered Diversions (3.02) 21
Metered Water Supply (3.01) 21

* * * * *

WASTEWATER RULES AND REGULATIONS

Abandoned Building Sewers 17
Authority of Utility Service Board 5
Billing for Available Sewer 17
Billing of Service Charges 6
Building or House Sewers 9
City Subject to Rates & Charges 8
Codifier's Note 18
Collection - Through Court Actions 8
Connection Fee 17
Connection of Building Sewer to Sewer Main 10
Connection To Public Sewer Required 8
Connections to Public Sewers 5
Definitions 1
Delinquent Accounts 7
Delinquent Sewer Bills 17
Determination of Charges 6
Downspouts, Yard Drains and Storm Water 6
Feasibility of Extension 17
Grease and Sand Traps 8
Liability for Payment 7
Obstructing or Damaging Sewers 8
Other Basis For Extensions 18
Rules & Regulations on File 4
Sewer Extension 11
Sewer Main Extension Policy 12
Extension Above Free Limit 12
Contract for Service 13
Cost Basis 14
Engineering & Detailed Cost Estimate 13
Engineering & Oversizing 14
Exclusion of New Subdivisions 15
Initial Deposit 13
Lateral Extensions 16
Ownership of Mains 15
Petition for Service 13
Recording Extension Contracts 16
Refund Provision 15
Waiver of Protest to Annexation 16
Free Extensions 12
Statutory History 18

GENERAL ORDINANCE NO. 36-1998

AN ORDINANCE AMENDING THE MARION CITY CODE BY AMENDING THE MARION WASTEWATER REGULATIONS AND SEWER USE ORDINANCE

WHEREAS, changes in the law governing and method of operation of the City Wastewater Utility have occurred since the date Wastewater Regulations and the Marion Sewer Use Ordinance were last adopted by the Common Council of the City of Marion; and

WHEREAS, the Marion Utility Service Board has recommended to the Common Council of the City of Marion an amendment to the Marion City Code to comprehensively incorporate all amendments to the existing Code which have been made necessary by such changes; and

WHEREAS, the Board and the Council believe that said proposed amendment is in the best interests of the Utility and its users, and should be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE CIVIL CITY OF MARION, STATE OF INDIANA:

SECTION 1.

The Marion City Code is amended as follows:

Section 36-9-2-17. Wastewater Regulations. Is amended to read as follows:

(a) For the use of and the service rendered by said wastewater utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewage system or otherwise discharges sanitary sewage, industrial wastes, water

or other liquids either directly or indirectly into the sanitary sewage system of the City of Marion, Indiana, by or through any part of the sewage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(1) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to those rates, as the same is measured by the water meter there in use, except as herein otherwise provided. The following rates and charges are hereby established for the use of and the service rendered by said wastewater utility of the City of Marion, Indiana, based on the amount of water used during each billing period on or in the property or premises subject to those rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

(2) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used each billing period:

(a) Monthly Volume Charges - per 100 cubic feet

	Rates
Domestic Users:	
Treatment	$ .561
Conveyance	.126
Capital	.573
Total	$1.260

Manufacturing:	
Treatment	$ .561
Conveyance	.126
Capital	.443
Total	$1.130

(b) Billing Charge - per bill
(not applicable to minimum bills)

$2.092

(c) Minimum User Charges

Meter Size	Rates Per Month
5/8 inch	$ 5.67
3/4 inch	8.19
1 inch	14.74
1½ inch	32.95
2 inch	58.34
3 inch	131.42
4 inch	233.60
6 inch	525.80
8 inch	934.67

(d) Unmetered User Flat Charges - per month

Domestic Users:	
Single-family dwelling unit	$15.12
Multi-family	To be estimated by Utility
Manufacturing User	To be estimated by Utility

Estimates of monthly flat charges for multi-family residences shall be based on the number of family units accommodated by the system multiplied by the single-family residence monthly charge. Estimates of monthly flat charges for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes

used and other pertinent sewer use indicators or based on outfall measurements where available.

(e) Regional Contract Charges

In the event the City consummates a contract to service as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for appropriate, lawful unit charges. The charge with respect to the current agreement with the Town of Sweetser, Indiana, is as follows:

MARION SEWAGE WORKS
Marion, Indiana

Schedule of Present and Proposed Rates

	Rates
Regional Contract Charges - per 100 cubic feet	
Treatment	$ .494
Conveyance	.049
Capital	.177
Total	$ .722
In addition to the above volume charges, each contract customer shall pay the following charges:	
Monthly Billing Charge	$ 2.00
Quarterly Surveillance Charge	$157.50

(f) Excessive Strength Surcharge - per pound

Each user discharging waste into the wastewater collection system shall be subject to an excessive strength surcharge in addition to other sewage service charges imposed by this

ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than as follows:

1) Biochemical oxygen demand of 200 milligrams per liter.

2) Chemical oxygen demand of 400 milligrams per liter.

3) Suspended solids content of 250 milligrams per liter.

4) Phosphorous concentration of 10 milligrams per liter.

Computation of Surcharge

The surcharge shall be determined as follows:

1) The excess of pounds of COD/BOD (whichever is greater than the minimum stated above), suspended solids and/or phosphorus by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.006238 and then the concentrations measured in milligrams per liter of the Phosphorus, COD, BOD and/or suspended solids respectively in the user's sewage and (b) the allowed concentrations set for above. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate surcharges set out hereafter.

2) For phosphorus in concentrations of more than 10 parts per million.

Rates of Surcharge

The monthly rate of surcharge for each of the aforementioned constituents shall be as follows:

1) For biochemical oxygen demand - 16.8 cents per pound

2) For suspended solids - 16.8 cents per pound

3) For phosphorus removal in excess of 10 ppm - 159.3 cents per pound

(g) Waste Evaluation Charges

All users discharging wastes into the system requiring continuing surveillance, sampling and waste evaluation shall be subject to a quarterly fixed charge to cover the costs of such services in the amount of $157.50 per discharge point. The analytical fees shall be as established by the Board.

(h) Deposit. The Utility may require from each applicant for wastewater service a cash deposit of $60.00 as a guarantee against the non-payment of bills for service. However, if the applicant is an owner of real property whose credit is approved by the Utility, the deposit may be waived. If the customer's bill remains unpaid for a period of five (5) days after the date of the final bill or the date of discontinuance of service, the amount of that bill shall be deducted from the deposit and the balance, if any, will be remitted to the depositor.

(i) Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by the applicable sections of the Marion Municipal Code, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge system acceptable to the City and in conformance

with the City's obligations under Sec. 204B(1), Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35.928-1 and 35.928.2, and 35.935.13.

(j) Utility Contribution to General Fund.

The City sewage works shall, on June 1 and December 1 of each year, pay as a contribution in lieu of taxes an amount determined by the Board and based on factors including the fire hydrant rental fees due and owing the City Water Utility from the City, and the relative availability of funds, based on income of the Wastewater Utility as compared to that of the Water and Stormwater Utilities. The contribution is appropriated and shall be immediately paid out of the General Funds upon receipt of hydrant rental fees due and owing the City Water Utility from the City.

(b) GENERAL PROVISIONS:

SECTION 1

SEWER USE ORDINANCE

1.01 Purpose and Policy. This Code section sets uniform requirements for discharges into the wastewater collection and treatment system and enables the City to comply with the administrative provisions of the State Stream Pollution Control Board and the applicable effluent limitations, national standards, and any other discharge criteria which are required or authorized by State or Federal law, and to derive the maximum

public benefit by regulating the quality and quantity of wastewater discharge into those systems.

1.02 Definitions. Unless otherwise defined in this Code section, these terms shall be defined as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Water Works Association, and the Water Pollution Control Federation or Methods for Chemical Analysis of Water and Wastes published by the Environmental Protection Agency. Waste constituents and characteristics shall be measured by Standard Methods unless expressly stated, or as established by Federal or State regulatory agencies.

(a) AUTHORIZATION - Written letter authorizing various conditions of wastewater discharges.

(b) BENEFICIAL USES - Uses of State waters that may be protected against quality degradation include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by Federal or State law.

(c) BOARD - The City Utility Service Board.

(d) BUILDING SEWER - A sewer conveying wastewater from the premises of a user to a sanitary sewer.

(e) CITY WASTEWATER TREATMENT PLANT - Includes the sewer system, treatment processes and equipment.

(f) COMBINED SEWER - A sewer which carries both storm, surface and ground water runoff and sewage.

(g) COMPATIBLE POLLUTANT - Biochemical oxygen demand, suspended solids, pH, fecal coliform bacterial, phosphorous, and ammonia nitrogen plus additional pollutants identified in the Board's National Pollutant Discharge Elimination System (NPDES) permit if the publicly owned treatment works was designed to treat such pollutants to a substantial degree. While the term "substantial removal" is not subject to precise definition, it generally contemplates removals in the order of eighty (80) per cent or greater. Minor incidental removals in the order of ten (10) to thirty (30) percent are not considered "substantial".

(h) CONTROL AUTHORITY - The "Board" if the submission of the Pretreatment Plan has been approved in accordance with the requirement of CFR 403.11; or if not approved, the State Board of Health is the Control Authority.

(i) FEDERAL ACT - The Federal Water Pollution Control Act, PL 92-500, and any amendments thereto; as well as any guidelines, limitations, and standards promulgated by the Environmental Protection Agency pursuant to the Act.

(j) HOLDING TANK WASTE - Any waste from holding tanks including but not limited to septic tank waste and waste from vacuum pump tank trucks.

(k) INCOMPATIBLE POLLUTANT - Any pollutant which is not defined as a compatible pollutant.

(l) INFLOW - The water discharged to a sewer system from such sources as roof downspouts, cellar, yard and area drains, foundation drains, cooling water discharges, drainage of land, manhole covers, catch basins, storm sewers, surface runoff and street drainage.

(m) INTERFERENCE - The inhibition or disruption of the City Wastewater Treatment Plants sewer system, treatment processes or operations. The term includes prevention of sewage sludge use or disposal.

(n) MASS EMISSION RATE - The weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

(o) NEW SOURCE - Any building, structure, facility or installation from which there is or may be a discharge of pollutants, and as further defined in 40 CFR 403.3(k).

(p) NPDES PERMIT - National Pollutant Discharge Elimination System.

(q) PERSON - Any person as defined in Section 1-1-4-1 of this Code or any public agency including the State and the United States of America.

(r) POLLUTION - An alteration of the quality of the State waters by waste to a degree which unreasonably affects such waters for beneficial uses. Pollution may include contamination.

(s) POTW - Publicly-owned treatment works.

(t) PREMISES - A parcel of real estate including any improvements thereon which is determined by the Board to be a single user for purposes of receiving, using and paying for services.

(u) SANITARY SEWER - A sewer which carries sewage and to which storm, surface, ground waters and unpolluted industrial waters are not intentionally admitted.

(v) SIGNIFICANT INDUSTRIAL USER - shall apply to: a) industrial users subject to categorical pretreatment standards; and b) any other user that i) discharges an average of 25,000 gpd or more of process wastewater, ii) contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment plant or, iii) is designated as significant by the Board on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard of requirement. SIU's will be inspected and effluent discharge samples will be collected at least once a year.

(w) STATE WATERS - Surface water within the State boundaries.

(x) STORM SEWER - A sewer which carries storm surface and ground water drainage but excludes sewage.

(y) UNPOLLUTED WATER - Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the Board having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

(z) USER - Any person that discharges, causes or permits the discharge of wastewater into a sanitary sewer.

(aa) UTILITIES DIRECTOR - The administrative director of the City utilities.

(bb) WASTE - Includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

(cc) WASTEWATER - Waste and water, whether treated or untreated, discharged into or permitted to enter a sanitary sewer.

(dd) WASTEWATER CONSTITUENTS AND CHARACTERISTICS - The individual chemical, physical, bacteriological and radiological parameters, including volume and flow-rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

SECTION 2

REGULATIONS

2.01 Prohibited Practices. No person shall discharge to a sanitary sewer waste which cause, threaten to cause, or are capable of causing either alone or by interaction with other substances the following:

(a) Pollutants which create a fire or explosion hazard in the POTW and/or collection system, including but not limited to, waste streams with a closed cup flash point of less than 140 degrees F or 60 degrees centigrade, using the test method specified in 40 CFR 261.21.

(b) Obstruction of flow in a sewer system or injury of the system or damage to the wastewater collection, treatment or disposal facilities.

(c) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and/or safety problems.

(d) A nuisance or prevention of the effective maintenance or operation of the sewer systems.

(e) Air pollution by the release of toxic or malodorous gas-producing substances.

(f) Interference with the wastewater treatment process or the quality of the effluent as established by the NPDES permit.

(g) Discoloration or any other condition in the quality of the Board's treatment works effluent in such a manner that receiving water quality requirements established by law cannot be met.

(h) Conditions at or near the Board's treatment works which violate any statute or any rule, regulation, or ordinance of any public agency or State or Federal regulatory body.

(i) Quantities or rates of flow which overload the Board's collection or treatment facilities or cause excessive Board collection or treatment costs, or may use a disproportionate share of the Board facilities.

(j) Petroleum Oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

2.02 Requirements.

2.02.1 Stored Wastes. Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or material storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

2.02.2 New Construction. New construction tributaries to a combined sewer are required to be designed to minimize or delay inflow contribution to the existing combined sewer, by means of a qualified retention facility as defined in the Stormwater Utility Ordinance, Ord. No. 27-1994.

2.02.3 New Building Inflow. In any new building, inflow/clear water connection to a combined sewer shall be made separate and distinct from sanitary waste connection to facilitate disconnection of the former if a separate storm sewer subsequently becomes available.

2.02.4 Combined Sewers. The construction of combined sewers in the City of Marion sewerage system is prohibited.

2.03 Prohibition on Unpolluted Water. Unpolluted water, including but not limited to cooling water, process water or blow-down from cooling towers or evaporative coolers shall not be discharged through direct or indirect connection to a sanitary sewer unless authorization is granted by the Board. If the authorization is granted for the discharge of that water into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet all other conditions required by the Board.

2.04 Limitations on Radioactive Wastes. No person shall discharge, or cause to be discharged, any radioactive waste into a sanitary sewer.

2.05 Limitations on the Use of Garbage Grinders. Waste from garbage grinders shall not be discharged into a sanitary sewer except:

(a) Wastes generated in preparation of food normally consumed on the premises, or

(b) Where the user has obtained authorization for that specific use from the Board, and agreed to undertake whatever self-monitoring is required to enable the Board to equitably determine the user charges based on the waste constituents and characteristics.

These grinders shall shred the waste so that all particles shall be carried freely under normal flow conditions prevailing in the sanitary sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials or garden refuse.

2.06 Point of Discharge. No person shall discharge any substance directly into a manhole or other opening in a city sewer other than through an approved building sewer, unless authorized by the Board. No person shall discharge any trucked or hauled pollutants, except at discharge points designated by the Board.

2.07 Industry Holding Tank Waste. A user proposing to discharge holding tank waste into a sanitary sewer must secure a permit from the Board. This permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics. If authorization is granted for discharge of that waste into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the Board.

2.08 Limitations on Wastewater Strength.

2.08.1 No person shall discharge any toxic substance that may interfere with the biological treatment process of the City Wastewater Treatment Plant or cause damage to the receiving stream or violate stream standards or prevent the use or disposal of sludge.

2.08.2 No person shall discharge any wastewater:

(a) Having heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40º C (104º F) unless the Approval Authority (EPA), upon request of the POTW, approves alternate temperature limits.

(b) Containing a total of more than 100 mg/1 of oil and grease of any source.

(c) Having a pH lower than 5.5 or above 10.5 unless the POTW demonstrates that the works is specifically designed to accommodate discharges not within the above limits.

(d) Cadmium in excess of the following limits:

Until June 30, 1986	0.1 mg/1
On and after July 1, 1986	0.05 mg/1

2.08.3 No person shall discharge, on a daily average,

wastewater containing in excess of:

Constituent	Concentration (mg/1)	
Arsenic	0.10	
Barium	2.00	
Chromium (total)	2.50	
Chromium (Hexavalent)	0.50	
Copper	2.00	
Cyanide	1.00	
Cyanide (Amenable to Chlorine)	0.50	
Fluoride	18.00	monthly average
Iron	5.00	
Lead	0.50	
Manganese	0.05	
Mercury	0.10	
Nickel	2.00	
Phenol	0.50	
Selenium	0.05	
Silver	0.20	
Sulfide (as S)	10.00	
Zinc	5.00	

To avoid excessive discharges which might adversely affect the wastewater treatment plant and still fall within the daily average limits outlined above, the maximum daily discharge limits shall not exceed three (3) times the average daily limits.

2.08.4 Effluent limitations promulgated by the Federal Act shall apply in any instance where they are more stringent than those in this Code section. Under Section 307(b) of the Act, Federal pre-treatment standards are designed to achieve two (2) purposes:

(a) To protect the operation of publicly owned treatment works, and

(b) To prevent the discharge of pollutants which pass through such works inadequately treated. Users in the industrial categories subject to effluent guidelines issued under Section

304(b) of the Act, which are discharging incompatible pollutants to publicly owned treatment works, shall be required to adopt pre-treatment guidelines as they are promulgated by EPA when and if they require more stringent limits than called for by this Code section. Where the treatment works was designed to and does achieve substantial removal of pollutants other than the pollutants listed in the definition for compatible pollutants in Section 1.02g (BOD, suspended solids, pH, and fecal coliform bacteria, phosphorous and ammonia nitrogen), the Board may modify pre-treatment requirements as long as such modification does not adversely affect the wastewater treatment process or the terms and conditions of the municipal NPDES permit. While the term "substantial removal" is not subject to precise definition, it generally contemplates removals in the order of eighty (80) percent or greater. Minor incidental removals in the order of ten (10) percent to thirty (30) percent are not considered "substantial". For some industrial categories it may be necessary to define pre-treatment guidelines for problems that may arise as a result of the discharge into publicly owned treatment works. However, any adjustments required for particular industrial categories should be considered in connection with the Board's requirements rather than in the national pre-treatment standard. Limitations on wastewater strength in subsections 2.08.1, 2.08.2, and 2.08.3 of this City

Code section may be supplemented with more stringent limitations pursuant to subsection 4.02.4:

(1) If the Board determines that the limitations in subsections 2.08.1, 2.08.2, and 2.083.3 may not be sufficient to protect the operation of the treatment works, or

(2) If the Board determines that the limitations in subsections 2.08.1, 2.08.2, and 2.08.3 may not be sufficient to enable the treatment works to comply with water quality standards or effluent limitations specified in the City's National Pollutant Discharge Elimination System (NPDES) permit.

2.09 Dilution. No person shall increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with this Code section or any other applicable standard.

2.10 Rules on file. The rules and regulations under which waste disposal systems shall be operated are incorporated by reference under this code section. Two (2) copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for inspection in accordance with Indiana Code 36-1.5. Another copy shall be filed for the convenience of the public in the general office of the Utility.

SECTION 3

WASTEWATER VOLUME DETERMINATION

3.01 Metered Water Supply. User charges and fees shall be based upon the total amount of water used from all sources unless, in the opinion of the Board, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources shall be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the Board.

3.02 Metered Wastewater Volume and Metered Diversions. For users where, in the opinion of the board, a significant portion of the water received from any material sources does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the user charges and fees shall be applied against the volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water shall be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the Board and at the user's expense. These meters may measure either the amount of sewage discharge or the amount of water diverted. These meters shall be tested for accuracy at the expense of the user when deemed necessary by the Board.

3.03 Estimated Wastewater Volume.

3.03.1 Users without source meters. For users where, in the opinion of the Utilities Director, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the Utilities director. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.

3.03.2 Users with source meters. For users who, in the opinion of the Utilities Director, divert a significant portion of their flow from a sanitary sewer, the user charges may be based upon:

(a) direct measurement of the diverted flow or

(b) an estimate of the volume prepared by the user provided the user obtains Wastewater Discharge Authorization and pays the applicable user charges and fees. The estimate shall include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

SECTION 4

ADMINISTRATION

4.01 Compliance Schedule Reports. Any non-categorical industry which is not in compliance with this Code section limitation shall develop a compliance schedule by which time the industry shall meet the City's standards. The schedule should contain increments of progress, such as hiring engineers and starting construction, which correspond to specific dates for their completion. These represent major events leading to the operation of pretreatment equipment to meet the City's pretreatment standards. All industrial users subject to these conditions shall submit a progress report to the City no later than fourteen (14) days following each date in the compliance schedule. This report shall state if it complies with the increment of progress to be met on that date, the reason for delay if the date was not met, and the steps being taken to return to compliance. In no event shall more than six (6) months elapse between progress reports.

4.01.1 Self-Monitoring Reports. This requirement calls for the submission of all notices and self-monitoring reports from Significant Industrial Users that are necessary to assess and assure compliance by Industrial Users with applicable pretreatment standards and requirements and that are deemed necessary by the Board. These reports will normally be required on a monthly basis, but no less than every six months. Any

additional data gathered pertaining to discharge volume or characteristics not mandated by permit or ordinance shall also be forwarded in a timely manner.

Requirement for Notification. Users shall notify the Utility immediately upon becoming aware of a discharge of wastes which may violate this ordinance in order that countermeasures may be taken by the Board to minimize damage to the city sewer, treatment facility, treatment processes and the receiving waters.

Noncompliant discharges covered under this section include but are not limited to: (1) accidental (slug) discharges, (2) noncompliant discharges revealed through self-monitoring, (3) treatment plant upsets and/or bypasses.

This notification shall be followed, within 15 days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve users of liability for expense, loss or damage to the sewer system, treatment plant or treatment process or for any fines imposed on the Board.

In all instances where noncompliance is discovered by self-monitoring, the user shall follow up with additional monitoring within thirty (30) days to ensure a return to

compliance. Additional monitoring by the user may be required in other circumstances when considered appropriate by the Board.

4.01.2 Monthly Reports. This requirement calls for the submission of all notices and self-monitoring reports from industrial users that are necessary to assess and assure compliance by those users with applicable pretreatment standards and requirements. These reports shall normally be required on a monthly basis.

4.01.3 Baseline Report.

(a) Within one hundred eighty (180) days after the effective date of a Categorical Pretreatment standard, or one hundred eighty (180) days after the final administrative decision made on a category, whichever is later, existing industrial users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Control Authority a report containing the information listed in paragraph (b)(1)-(7) of CFR 403.12(b).

(b) Upon promulgation of a Categorical Pretreatment Standard, the Control Authority (either U.S. EPA, State or POTW) shall provide the appropriate 12(b) form for distribution to the industrial users who are affected by the promulgated standard. Those users shall then submit the completed report to the Control Authority.

(c) New sources or existing sources that become industrial users subsequent to the promulgation of an applicable

categorical pretreatment standard are required to submit a Baseline Monitoring Report within 90 days prior to commencing discharge. Estimated data may be provided.

(d) Baseline Monitoring Reports will also be required of non-categorical significant industrial users and other users at the discretion of the Board.

4.01.4 (a) Compliance Schedule Reports. 402.12(c) (categorical industries). These reporting conditions apply to the compliance schedule required in CFR 403.12(b)(7). This schedule is necessary whenever an industrial user is not meeting categorical pretreatment standards at the time of promulgation of that standard. The schedule contains increments of progress such as hiring an engineer, completing plans, commencing construction, and completing constructing, which correspond to specific dates for their completion. These represent major events leading to the construction and operating of additional pretreatment required for the industrial user to meet the applicable Categorical Pretreatment Standard.

(b) All industrial users subject to these conditions shall submit a progress report to the Control Authority no later than fourteen (14) days following each date in the compliance schedule including the final date for compliance. This report shall include, at a minimum, whether or not it complied with the increment of progress to be met on that date and, if not, the date on which it expects to comply, the reason for delay, and the

steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports.

4.01.5 Compliance Deadline and Report. Compliance by existing sources with Categorical pretreatment Standards shall be within 3 years of the date the standard is effective unless the users meet the criteria described in 40 CFR 403.6(b). New sources shall install and have in operating conditions and shall "start-up" all pollution control equipment required to meet applicable pretreatment Standards before discharge begins. New sources must meet all applicable standards within the shortest feasible time (not to exceed 90 days).

Within 90 days following the date for final compliance with an applicable categorical pretreatment standard, any industrial user subject to those standards must submit to the Board a report with all information required by 40 CFR 403.12(d). The reports must also state whether applicable standards are being met on a consistent basis and if not, what additional operation and maintenance and/or pretreatment is necessary to bring the discharge into compliance. This statement should be signed by an authorized representative of the industrial user.

4.01.6 Periodic Reports on Continued Compliance. Any user subject to an applicable pretreatment standard must submit to the Board during the months of June and December, or more frequently if required by the Board, following the final

compliance date of that pretreatment standard, a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the categorical pretreatment standards. In addition, this report must include a record of all measured or estimated average and maximum daily flows during the reporting period. Flows are to be reported on the basis of actual measurement, except, where cost or feasibility considerations justify, the Board may accept reports of average and maximum flows estimated by verifiable techniques. The Board, considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors may authorize submission of the reports on months other than those specified above. This report must be signed by the authorized representative.

4.02 Wastewater Discharge Authorization.

4.02.1 Any new major user proposing to connect or to discharge into a sanitary sewer shall obtain authorization before connecting to or discharging into a sanitary sewer. All existing major users connected to or discharging into a sanitary sewer shall obtain authorization by April 18, 1978. For purposes of the Code section, a major user is defined as any user whose user classification is identified in the Standard Industrial Classification (SIC) Manual in any Divisions A, B, D, E and I and who:

(a) has a discharge flow of fifty thousand (50,000) gallons or more per average work day, or

(b) has a flow greater than five (5) percent of the flow in the wastewater treatment system, or

(c) has wastes containing toxic pollutants in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act, or

(d) is found by the Board to have significant impact, either singly or in combination with other contributing industries, on the treatment or collection system.

Such authorization shall be conditioned on compliance by existing sources with Categorical Pretreatment Standards and with the reporting requirements of this Section.

4.02.2 Users seeking authorization shall complete and file with the Utility director an application in the form prescribed by the Board. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address, and SIC number of applicant;

(b) Volume of wastewater to be discharged;

(c) Wastewater constituents and characteristics as determined by a laboratory approved by the Board;

(d) Time and duration of discharge;

(e) Average and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation;

(g) Description of activities, facilities and plant process on the premises including all materials, processes and types of materials which are or could be discharged;

(h) Each product produced by type, amount, and rate or production;

(i) Number and type of employees and hours of work;

(j) Any other information as may be deemed necessary by the Utilities Director to evaluate the permit application.

(k) Certification Statement. All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The Utilities Director shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Board may issue Wastewater Discharge Authorization subject to terms and conditions provided in this Code section.

4.02.3 An authorization for Wastewater Discharge shall be expressly subject to all provisions of this Code section and all other regulations, user charges, and fees established by the Board. The conditions of authorization shall be uniformly enforced by the Utilities Director in accordance with this ordinance, and applicable State and Federal regulations. Authorization may contain the following:

(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a sanitary sewer;

(b) The average and maximum wastewater constituents and characteristics;

(c) Limits on rate and time of discharge or requirements for flow regulations and equalization;

(d) Requirements for installation of inspection and sampling facilities;

(e) Pretreatment requirements;

(f) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule;

(g) Requirements for submission of technical reports or discharge reports;

(h) Requirements for maintaining plant records relating to wastewater discharge as specified by the Board and affording Board access thereto;

(i) Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as defined by subsection 1.02 g) are proposed or present in the user's wastewater discharge; and

(j) Other conditions as deemed appropriate by the Board to insure compliance with this Code section.

4.02.4 Duration of Authorization. Authorization shall be issued for an unlimited time period. A temporary authorization shall be issued to a specific duration. The terms and conditions of the authorization shall be subject to modification and change by the Board during the life of the authorization. The user shall be informed of any proposed changes in his authorization at least sixty (60) days prior to the effective date of change. Any changes or new conditions in the authorization shall include a reasonable time schedule for compliance.

4.02.5 Transfer of an Authorization. A wastewater Discharge Authorization shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new changed operation.

4.02.6 Revocation of Authorization. Any user who violates the following conditions of the authorization of this code section, or applicable State and Federal regulations, shall be subject to having his or her authorization revoked:

(a) Failure of a user to factually report the wastewater constituents and characteristics of his or her discharge;

(b) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;

(d) Violation of conditions of the authorization.

4.03 Monitoring Facilities. The Board may require the user to construct, at his or her own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems and may also require sampling or metering equipment to be provided, installed, and operated at the user's expense. The monitoring facility should normally be situated on the user's premises, but the Board may, when that location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it shall not be obstructed by landscaping or parked vehicles.

If the monitoring facility is inside the user's fence, there shall be accommodations to allow access for Board personnel.

There shall be ample room in or near such sampling manhole to allow accurate sampling and compositing of samples for analysis. The manhole, sampling, and measuring equipment shall be maintained by the user in a safe and proper operating condition at all times.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Board's requirements and all applicable Board construction standards and specifications. Construction shall be completed within a reasonable period of time following written notification by the Board.

4.04 Inspection and Sampling. When self monitoring is required of the industrial user, all test procedures should be conducted using approved methods found in 40 CFR 136. The Board shall have the right to enter the facilities of an industrial user to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the Board ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary

arrangements with its security guards so that, upon presentation of suitable identification, personnel from the Board, State, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

(b) The Board, State, and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) the Board may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Board and shall not be replaced. The costs of clearing such access shall be born by the industrial user.

(e) Unreasonable delays in allowing Board's personnel access to the industrial user's premises shall be a violation of this ordinance.

4.05 Pretreatment. Users shall make wastewater acceptable under the limitations established herein before discharging to any sanitary sewer. Any facilities required to pretreat wastewater to a level acceptable to the Board shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Board for review, and shall be acceptable to the Board before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce effluent acceptable to the Board under the provisions of this Code section. The Board shall be notified forty-eight (48) hours before the startup of new or modified pretreatment facilities. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Board. In addition, the self-monitoring reports and notification requirements as set out in Paragraph 4.01 are applicable.

4.06 Protection From Accidental Discharge. Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this Code section. those facilities shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the

Board for review, and shall be acceptable to the Board before construction of the facility.

The review of these plans and operating procedures shall in no way relieve the users from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this subsection. If an accidental discharge to the sanitary sewer occurs, the Utilities Director shall be notified immediately.

Bypass of Industrial Treatment Facilities is prohibited, and the Board may take enforcement action against an Industrial User for bypass unless the conditions in 40 CFR 403.17(d) are met.

Slug Discharge Control. Industrial users designated by the Board will be required to submit for approval a Slug Discharge Control Plan. The plan shall contain at least the following elements:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for the prompt notification of the Board of slug discharges to the treatment works including any discharge that violates prohibited substances followed by written notification within five (5) days;

(d) Procedures to prevent adverse impact upon the treatment plant or collection system from accident spills including inspections and maintenance of storage areas, handling

and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents and/or measures for emergency response.

4.07 Confidential Information. All information and date on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Board that the release of that information would divulge information, processes or methods which are of a proprietary nature to the user's competitive position.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information. Information accepted by the Board as confidential shall not be transmitted to any governmental agency or to the general public by the Board until and unless prior and adequate notification is given to the user.

4.08 Discretionary Action. Where circumstances so warrant the Board may agree to arrangements with parties or agencies which modify the terms of this Code section if that arrangement complies with the NPDES permit of the city and all other Federal and State laws and regulations governing the operation of the wastewater treatment plant.

4.09 Record Retention. All discharges subject to local, State or Federal regulations shall retain and preserve records for at least three (3) years that are related to monitoring, sampling and chemical analysis made by or in behalf of a discharger in connection with its discharge. In addition, all records which pertain to matters which are the subject of any enforcement or litigation activities brought by the Authority shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation concerning any appeals have expired.

4.10 Notification of Change of Discharge. All industrial users shall promptly notify the control authority in advance of any substantial change in the volume or character of pollutants in their discharge.

4.11 Hazardous Wastes. The industrial user shall promptly notify the POTW, the EPA and the state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40CFR, Part 261.

SECTION 5

WASTEWATER USER CHARGES AND FEES

5.01 Adjustment of Charges Based on Strength and Character of Sewage. Each person discharging wastes into the City sewers shall be subject to a surcharge in addition to the regular sewerage service charge. A surcharge based on the biochemical oxygen demand (BOD) and the suspended solids (SS) content of the wastes, shall be applied if the waste concentration exceeds the following:

(a) Biochemical oxygen demand - 200 mg/1

(b) Suspended solids - 250 mg/1

(c) Phosphorus - 10.0 mg/1

5.01.1 Sampling and Testing for Surcharges or User Charges. The discharged sewage shall be sampled during each sewage billing period for a minimum of a one (1) day period, i.e., twenty-four (24) hours, by means of a composite sample. An extended sampling period of up to one (1) week, i.e., seven (7) continuous days, or reduction may be requested to enable the gathering of a sample representative of a business' sewage. The extension or reduction of the sampling period beyond the initial one (1) day sampling period may be requested by either the sewer user involved or the Board. If an extended sampling period is requested, the parameter values used to calculate the surcharge shall be the arithmetical average of the individual values. If a

business or industry has multiple discharges of sewage, each discharge shall be sampled according to quality. The volume of each discharge shall be determined by actual measurement or by means of process usage. If significant process changes are made to affect quality of any discharge, resampling may be requested by either the sewer user involved or the Board.

The sewage sample shall be measured for the following parameters: Biochemical oxygen demand (BOD), suspended solids (SS) and phosphorus. These tests shall be conducted in accordance with the Code of Federal Regulations, Title 40, Part 136, Guideline Establishing Test Procedures for the Analysis of Pollutants.

5.01.2 Computation of Surcharge. The excess pounds of BOD, suspended solids and phosphorus shall be computed by multiplying the sewage billing volume measured in units of one hundred (100) cubic feet for the current sewage billing period by the factor 0.006238 and then multiplying the difference between the concentration measured in milligrams per liter of the BOD, suspended solids and phosphorus, respectively, in the customer's sewage and the allowed concentrations set out above and in Subsection 5.01(a) and (b), resulting in the pounds of each constituent. The surcharge of each constituent shall then be determined by multiplying the excess pounds of each constituent by the appropriate surcharge set forth in Subsection 5.01.3.

5.01.3 Rates of Surcharge. The rates of surcharge for each of the aforementioned constituents shall be as specified in the Wastewater Regulations, Sec. 36-9-2-17(a)(2)(f), Excessive Strength Surcharge.

5.01.4 Revision of Rates of Surcharge. Before April 1 of each year, the Utilities Director shall submit to the Board a detailed report showing cost for removing BOD, suspended solids and phosphorus from wastewater treatment plant influent during the previous calendar year with the unit charges currently in effect so that the Board may determine if the current rates are adequate or should be changed.

SECTION 6

ENFORCEMENT

The City Utilities Director shall be the authorized agent for the City to insure that the provisions of this City Code section, as supplemented by the Marion Utility Service Board's Enforcement Response Guide, are carried out.

6.01 Accidental Discharge.

6.01.1 (a) Notification of Violation. If the Authority finds that any discharger has engaged in conduct which justifies revocation of a wastewater permit or suspension of service, the Authority shall serve the discharger with a written notice, either personally or by certified or registered U.S. mail, stating the nature of the alleged violation. Within ten (10)

days following receipt of the notice, the discharger shall respond personally or in writing to the Authority, advising of its position concerning the allegations. Thereafter, the parties shall meet to determine the seriousness of the allegations and, if necessary, establish a plan for the satisfactory correction of any violations.

(b) Definition of Significant Noncompliance. Instances of significant noncompliance are defined as follows:

a. Violations of wastewater discharge limits will be evaluated based on the magnitude and/or frequency of the violations of average limits over a six-month period. These violations will be evaluated on the basis of individual parameters and monitoring locations.

1. Technical Review Criteria (TRC). Two or more exceedances of an average limit or daily maximum limit which exceed the limitations by at least the TRC factor in a six-month period, or 33% of the measurements exceeding the limit. There are two groups of TRC factors:

Group I - for conventional pollutants (BOD, TSS, fats, oils, grease and pH)

TRC factor = 1.4 x parameter limitation value

Group II - for all other pollutants

TRC factor = 1.2 x parameter limitation value (except pH and temperature)

2. Chronic violations are four (4) or more exceedances of the same average limit or daily maximum, limit in a six-month period; or 67% of the measurements exceeding the limit.

3. Any other violation of an effluent limit (average or daily maximum) which the Board

believes has the potential to cause or has caused interference with the POTW performance capability (e.g., slug loads) or passes through the plant in unacceptable quantities (e.g., exceeds water quality standards or impairing beneficial uses).

b. Violation of compliance schedule milestones, for planning, engineering, starting construction, completing construction and attaining final compliance by 60 days or more after the schedule date.

c. Failure to provide reports for compliance schedules, self-monitoring data, baseline monitoring reports, or permit application data within 30 days from the due date specified in the ordinance, permit or enforcement order.

d. Knowingly reporting inaccurate information or falsifying data.

e. Any other violation or group of violations which the POTW considers to be significant.

6.01.2 Show Cause Hearing. If a violation of this City Code section or of applicable pretreatment regulations occurs and is not corrected by timely compliance, the Authority may order any discharger to show cause before them and state why the proposed permit revocation action should not be taken. A written notice shall be served on the discharger by personal service, or by certified or registered U.S. mail, specifying the time and place of a hearing to be held by the Authority. The hearing shall consider the violation, the proposed enforcement action, the reasons why the enforcement action should be taken, and

directing the discharger to show cause before the Authority as to why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten (10) days before the hearing. Service may be made on any agent, officer, or authorized representative of a discharger. The proceedings at the hearing shall be considered by the Authority and appropriate orders with respect to the alleged improper activities of the discharger shall be issued.

6.01.3 Annual Publication of Violators. A list of all dischargers which were found to be in significant noncompliance shall be published annually by the Authority in the largest daily newspaper in the municipality in which the Authority is located.

6.02 Issuance of Cease and Desist Orders. When the Board finds that a discharge of wastewater has taken place, in violation of prohibitions or limitations of this Code section, the Utilities Director may issue an order to cease and desist and direct that those persons not complying with those prohibitions, limits, requirements or provisions to:

(a) comply forthwith;

(b) comply in accordance with a time schedule set forth by the Board; or

(c) take appropriate remedial or preventive action in the event of a threatened violation.

6.03 Submission of Time Schedule. If the Board finds that a discharge of wastewater has been taking place, in violation of

prohibitions or limitations prescribed in this Code section, or wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a Wastewater Discharge Authorization, the Board may require the user to submit for approval, with those modifications it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements.

6.04 Appeals. Any user affected by any decision, action or determination, including cease and desist orders, made by the Utilities Director, interpreting or implementing the provisions of this section or in any authorization issued herein, may file with the Director a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

If the ruling made by the Director is unsatisfactory to the person requesting reconsideration, he or she may, within ten (10) days after notification of Board action, file a written appeal to the Board. The written appeal shall be heard by the Board within thirty (30) days from the date of filing. The Board shall make a final ruling on the appeal within ten (10) days of the close of the meeting. The Director's decision, action, or determination shall remain in effect during that period of reconsideration.

SECTION 7

ABATEMENT

7.01 Public Nuisance. Discharges of wastewater in any manner in violation of this Code section or of any order issued by the Utilities Director as authorized by this Code section, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person creating a public nuisance is guilty of an ordinance violation.

7.02 Legal Action. If any person discharges sewage, industrial wastes or other wastes into a City's wastewater disposal system contrary to this Code section, ordinance, Federal or State Pretreatment Requirements, or any order of the City, the City or Board Attorney may commence an action for appropriate legal relief, equitable relief or both in the applicable court.

7.03 Damage to Facilities. When a discharge of wastes causes an obstruction, damage, or any other impairment to Board facilities, the Board may assess a charge against the user for the work required to clean or repair the facility and add that charge to the user's charges and fees.

7.04 Civil or Criminal Penalties.

(a) Any user which has violated or continues to violate this ordinance, any order or wastewater discharge permit hereunder, or any other pretreatment standard or requirement shall be liable to the Board for a minimum civil penalty of $1,000 per violation per day. In the case of a monthly or other

long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The Board may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Board facilities.

(c) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

7.05 Falsifying of Information. Any person who knowingly makes any false statement of representation, record, report, plan or other documents filed with the Board or who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required under this section shall be subject to the penalties set forth in Subsection 7.04.

7.06 Termination of Service. The Board may revoke any Wastewater Discharge Authorization, or terminate or cause to be terminated wastewater service to any premise if a violation of any provision of this section is found to exist or if a discharge of wastewater

causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in this section. This provision is in addition to other statutes, rules or regulations, authorizing termination of service for delinquency in payment.

PASSED, in Common Council, the 18th day of August, 1998.

Presiding Officer

ATTEST:

KATHLEEN KILEY
City Clerk

Presented by me to the Mayor of the City of Marion, Indiana, this 19 day of August, 1998.

KATHLEEN KILEY
City Clerk

THIS ORDINANCE APPROVED by me this 19th day of August, 1998.

RON W. MOWERY, Mayor
City of Marion, Indiana

AN ORDINANCE AMENDING THE MARION CITY CODE BY AMENDING THE MARION WASTEWATER REGULATIONS AND SEWER USE ORDINANCE

WHEREAS, changes in the law governing and method of operation of the City Wastewater Utility have occurred since the date Wastewater Regulations and the Marion Sewer Use Ordinance were last adopted by the Common Council of the City of Marion; and

WHEREAS, the Marion Utility Service Board has recommended to the Common Council of the City of Marion an amendment to the Marion City Code to comprehensively incorporate all amendments to the existing Code which have been made necessary by such changes; and

WHEREAS, the Board and the Council believe that said proposed amendment is in the best interests of the Utility and its users, and should be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE CIVIL CITY OF MARION, STATE OF INDIANA:

Section 36-9-2-17. Wastewater Regulations. Is amended to read as follows:

SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Marion and enables the Board to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this ordinance are:

A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;

B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

D. To promote reuse and recycling of wastewater and sludge from the Publicly Owned Treatment Works;

E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

F. To enable the Board to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires User reporting.

1.2 Administration

The City Utility Service Board shall, in accordance with the State law, make and enforce whatever bylaws, rules and regulations it deems necessary for the safe, economical and efficient management of the wastewater utility, for the construction and use of building sewers and connections to the sewerage system including storm water and surface drainage, for the regulation, collection and refunding of the rates and charges for wastewater service and for the extension or replacement of sewer mains.

Except as otherwise provided herein, the Board shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Board may be delegated by the Board to a duly authorized utility representative.

Additional Rules and Regulations have been developed by the Board regarding the operation of waste disposal systems. These Rules and Regulations are in addition to this ordinance and are incorporated by reference under this code section. Two (2) copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for inspection in accordance with Indiana Code 36-1.5. Another copy shall be filed for the convenience of the public in the general office of the Utility.

1.3 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
C – Temperature in Centigrade
CFR – Code of Federal Regulations
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency

F – Temperature in Fahrenheit
gpd – gallons per day
IAC – Indiana Administrative Code
mg/l – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
SIU – Significant Industrial User
TSS – Total Suspended Solids
U.S.C. – United States Code

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

B. Approval Authority. EPA Region V

C. Authorized or Duly Authorized Representative of the User.

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) If the User is an individual or any other legal entity: the individual or a legally authorized representative, agent, or assignee.

(5) The individuals described in paragraphs 1 through 4, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Board.

D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

E. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with certain established categorical Pretreatment Standards and effluent limits.

F. Board. The City Utility Service Board per Marion City Code Section 36-9-2-15 or its duly authorized representative.

G. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

H. Categorical Industrial User or CIU. A User subject to a categorical Pretreatment Standard or categorical Standard.

I. City. Marion, Indiana.

J. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

K. Combined Sewer - A sewer which carries both storm, surface and ground water runoff and sewage.

L. Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

M. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

N. Discharge. The introduction of pollutants into the POTW from any source.

O. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

P. Existing Source. Any source of discharge that is not a "New Source."

Q. Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

R. Inflow. The water discharged to a sewer system from such sources as roof downspouts, cellar, yard and area drains, foundation drains, cooling water discharges, drainage of land, manhole covers, catch basins, storm sewers, surface runoff and street drainage.

S. Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the user flow rate and the duration of the sampling event.

T. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Board's NPDES permit or of the prevention of sewage sludge use or disposal.

U. Local Limit. Specific discharge limits developed and enforced by the Board to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs are considered local limits.

V. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

W. Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

X. Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Y. New Source. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, and as further defined in 40 CFR 403.3 (m).

Z. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

AA. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Board's NPDES permit, including an increase in the magnitude or duration of a violation.

BB. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

CC. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

DD. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

EE. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

FF. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

GG. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

HH. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.

II. Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or other wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

JJ. Sanitary Sewer - A sewer which carries sewage and to which storm, surface, ground waters and unpolluted industrial waters are not intentionally admitted.

KK. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

LL. Significant Industrial User (SIU).

Except as provided in paragraphs (3) and (4) of this Section, a SIU is:

(1) A User subject to categorical Pretreatment Standards; or

(2) A User that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
(c) Is designated as such by the Board on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) The Board may determine that a User subject to categorical Pretreatment Standards is a NSCIU rather than a SIU on a finding that the User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(a) The User, prior to Board's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
(b) The User annually submits the certification statement required in Section 6.14 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
(c) The User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the Board may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a SIU.

MM. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance or in any other way violate the POTW's regulations, Local Limits or Permit conditions. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through.

NN. Storm Sewer . A sewer which carries storm surface and ground water drainage but excludes sewage.

OO.Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

PP. Total Suspended Solids or Suspended Solids or TSS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

QQ. User. A source of discharge.

RR. Wastewater. Liquid and water-carried wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

SS. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of wastewater.

SECTION 2—GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 5.0 or more than 12.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW or be detrimental to POTW operation, including, but not limited to, fats, oil, grease, sand, mud, rags, plastic food packaging, paper towels, and disposable wipes;

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;

(5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the Board in accordance with Section 3.4 of this ordinance;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, to prevent entry into the sewers for maintenance or repair, or cause air pollution;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Board's NPDES permit;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

(12) Sludges, screenings, or other residues from the pretreatment of wastes;

(13) Medical Wastes, except as specifically authorized by the Board in a wastewater discharge permit;

(14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(15) Detergents, surface-active agents, or other substances which might cause excessive foaming in the POTW, thereby violating the Board's NPDES permit;

(16) Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent (10 %) of the Lower Explosive Limit of the meter.

(17) Wastewater containing a total of more than 100 mg/1 of oil and grease of any source, unless the POTW determines that a well-operated and maintained trap or interceptor results in meeting the objectives of this ordinance.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

C. Requirements

(1) No person shall discharge any substance directly into a manhole or other opening in a city sewer other than through an approved building sewer, unless authorized by the Board.

(2) A user proposing to discharge industrial holding tank waste into a sanitary sewer must secure a permit from the Board. This permit shall state the specific location of discharge, the time of day the discharge is to occur, the

volume of the discharge and the wastewater constituents and characteristics. If authorization is granted for discharge of that waste into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the Board.

(3) Inflow and unpolluted water, including but not limited to surface runoff; water from roof downspouts or foundation drains; and cooling water, process water or blow-down from cooling towers or evaporative coolers; shall not be discharged through direct or indirect connection to a sanitary sewer unless authorization is granted by the Board. If the authorization is granted for the discharge of that water into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet all other conditions required by the Board.

(4) In any new building, inflow/clear water connection to a combined sewer shall be made separate and distinct from sanitary waste connection to facilitate disconnection of the former if a separate storm sewer subsequently becomes available.

(5) The construction of combined sewers in the City of Marion sewerage system is prohibited.

2.2 National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471. Effluent limitations promulgated by the Federal Act shall apply in any instance where they are more stringent than those in this ordinance. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 and any future promulgated regulations are hereby incorporated.

A. Where a categorical Pretreatment Standard is expressed only in terms of the concentration of a pollutant in wastewater, the Board may impose equivalent mass limits in accordance with Section 2.2 D and 40 CFR 403.6(c).

B. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Board shall impose an alternate limit in accordance with 40 CFR 403.6(e).

C. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with 40 CFR 403.15.

D. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, a CIU may request that the Board convert the limits to equivalent mass limits. The determination to convert concentration limits to mass

limits is within the discretion of the Board. The Board may establish equivalent mass limits only if the CIU meets all the conditions set forth in 40 CFR 403.6 (c) (5).

E. Once included in its permit, the CIU must comply with the equivalent limitations developed in this Section (2.2) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

F. Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

G. Any CIU operating under a permit incorporating equivalent mass limits calculated from a production-based Standard shall notify the Board within two (2) business days after the CIU has a reasonable basis to know that the production level will significantly change within the next calendar month. Any CIU not notifying the Board of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

2.3 State Pretreatment Standards

A User shall comply with State Pretreatment Standards applicable to the User. If the State Pretreatment Standards are less stringent than the National Pretreatment Standards or Local Limits applicable to the User, the User shall comply with the more stringent standards. The State Pretreatment Standards, as amended from time to time, are hereby incorporated by reference into this Ordinance.

2.4 Local Limits

A. The Board is authorized to establish Local Limits, by ordinance, order, or in wastewater discharge permits, pursuant to 40 CFR 403.5(c).

B. The following pollutant limits are established by ordinance to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following Daily Maximum Limit.

0.10 mg/l arsenic
0.05 mg/l cadmium
2.50 mg/l chromium
2.00 mg/l copper
1.00 mg/l cyanide
0.50 mg/l lead

0.10 mg/l mercury
0.15 mg/l molybdenum
2.00 mg/l nickel
0.05 mg/l selenium
0.20 mg/l silver
5.00 mg/l zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Board may impose mass limitations in addition to the concentration-based limitations above.

C. The Board may develop Best Management Practices (BMPs) for any SIU or other User, as needed, to implement this Ordinance. BMPs may be implemented through a wastewater discharge permit, order, or other notice to the user. BMPs are Pretreatment Standards and enforceable under this Ordinance.

2.5 Right of Revision

The Board reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

2.6 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a ~~discharge, as a partial or complete substitute for adequate treatment to achieve compliance~~ with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Board may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

2.7 Discretionary Action

Where circumstances so warrant the Board may agree to arrangements with users which modify the terms of this ordinance if that arrangement complies with the NPDES permit of the Board and all other Federal and State laws and regulations governing the operation of the wastewater treatment plant.

SECTION 3—PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

In the event that a user is exceeding the limitations as set forth in Section 2, the Board shall direct the user causing the discharge of any such materials to cease and desist from those activities or operations which cause a violation of established discharge standards or to provide wastewater treatment as necessary to comply with this ordinance and to achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2 of this ordinance within the time limitations specified by EPA, the State, or the Board, whichever is more stringent.

Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Board for review, and shall be acceptable to the Board before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Board under the provisions of this ordinance.

Any facility classified as an industrial treatment plant per 327 IAC 5-22 shall meet the operator certification requirements in accordance with 327 IAC 5-22, as amended.

3.2 Additional Pretreatment Measures

A. Whenever deemed necessary, the Board may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from other facility wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.

B. The Board may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

C. Grease, oil, and sand interceptors shall be provided for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; unless a waiver is granted by the Board (normally not applicable to residential dwellings). All interception units shall be of a type and capacity approved by the Board and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at their expense. Such

interceptors shall be maintained such that the user does not violate the Pretreatment Standards in this Ordinance.

D. Waste from garbage grinders shall not be discharged into a sanitary sewer except:

(1) Wastes generated in preparation of food normally consumed on the premises, or

(2) Where the user has obtained authorization for that specific use from the Board, and agreed to undertake whatever self-monitoring is required to enable the Board to equitably determine the user charges based on the waste constituents and characteristics.

These grinders shall shred the waste so that all particles shall be carried freely under normal flow conditions prevailing in the sanitary sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials or garden refuse.

E. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Discharge Control Plans

Each User shall provide protection from accidental discharge of prohibited materials or other regulated wastes described in Section 2 of this ordinance. Those facilities shall be provided and maintained at the User's expense.

The Board shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Board may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Board may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

A. Description of discharge practices, including nonroutine batch discharges;

B. Description of stored chemicals;

C. Procedures for immediately notifying the Board of any accidental or Slug Discharge, as required by Section 6.6 of this ordinance; and

D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

A. Hauled wastewater may be introduced into the POTW only at locations designated by the Board, and at such times as are established by the Board. Such wastewater shall not violate Section 2 of this ordinance or any other requirements established by the Board.

B. The Board may require wastewater haulers to obtain wastewater discharge permits. The Board may also require generators of hauled wastewater to obtain wastewater discharge permits. The Board also may limit the volume discharged or prohibit the disposal of hauled wastewater. The discharge of hauled wastewater is subject to all other requirements of this ordinance.

C. The Board may collect samples of each hauled load to ensure compliance with applicable Standards. The Board may require the wastewater hauler to provide a waste analysis of any load prior to discharge. No load may be discharged without prior consent of the Board.

D. Wastewater haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the wastewater hauler, permit number, names and addresses of sources of wastewater, and volume and type of waste.

E. Wastewater haulers of sewage disposal system wastewater shall meet the requirements of 327 IAC 7, as amended, if more stringent than requirements of this ordinance.

3.5 Regulation of Waste Received from Other Jurisdictions

A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Board shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A above, the Board shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as the Board may deem necessary.

C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Board's ordinance or Local Limits;

(2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Board; and which of these activities will be conducted jointly by the contributing municipality and the Board;

(4) A requirement for the contributing municipality to provide the Board with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the Board access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Board; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

SECTION 4—WASTEWATER DISCHARGE PERMITS

4.1 Wastewater Analysis

When requested by the Board, a User must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Board is authorized to prepare a form for this purpose and may periodically require Users to update this information.

4.2 Wastewater Discharge Permit Requirement

Based upon a review of the information provided in Section 4.1, the Board shall determine whether or not a wastewater discharge permit must be issued or revised and what type of wastewater discharge permit or control document is appropriate for the User.

A. No SIU shall discharge wastewater into the POTW without first obtaining a SIU wastewater discharge permit from the Board.

B. The Board may require other Users to obtain non-SIU or other wastewater discharge permits as necessary or issue other control documents to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of a wastewater discharge permit or other control document shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

4.3 Wastewater Discharge Permit Application Contents

A. All SIUs must submit a permit application. Other Users may be required to submit a permit application. The Board may require Users to submit all or some of the following information as part of a permit application:

(1) ~~Identifying~~ Information.

a. The name and address of the facility, including the name of the operator and owner.

b. Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
d. Type and amount of raw materials processed (average and maximum per day);
e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2 B (40 CFR 403.6(e)).

(7) Measurement of Pollutants.
a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Board, of regulated pollutants in the discharge from each regulated process.
c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 7.3 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Board or the applicable Standards to determine compliance with the Standard.
e. Sampling must be performed in accordance with procedures set out in Section 7.4 of this ordinance.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 6.4 B [40 CFR 403.12(e)(2)].

(9) Any other information as may be deemed necessary by the Board to evaluate the permit application.

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

4.4 Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 6.14 A.

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Board prior to or together with any reports to be signed by an Authorized Representative.

C. A facility determined to be a Non-Significant Categorical Industrial User by the Board pursuant to 1.4 LL (3) must annually submit the signed certification statement in Section 6.14 B.

4.5 Wastewater Discharge Permit Decisions

The Board will evaluate the data furnished by the User and may require additional information. The Board may deny any application for a wastewater discharge permit.

SECTION 5—WASTEWATER DISCHARGE PERMIT ISSUANCE

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Board. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Board to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. SIU wastewater discharge permits must contain the following. Other wastewater discharge permits may contain the following:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Board in accordance with Section 5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

(4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 6.4 B.

(6) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(7) Requirements to control Slug Discharge, if determined by the Board to be necessary.

(8) Any grant of the monitoring waiver by the Board (Section 6.4 B) must be included as a condition in the CIU's permit.

B. SIU and other wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and

(8) Other conditions as deemed appropriate by the Board to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

5.3 Permit Issuance Process

Any person, including the User, may petition the Board to reconsider the terms of a wastewater discharge permit within fifteen (15) days of notice of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(4) If the Board fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a

wastewater discharge permit, not to issue a SIU wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Grant Circuit or Superior Court, Grant County, Indiana within thirty (30) days.

5.4 Permit Modification

A. The Board may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;

(2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the POTW, Utility personnel, the receiving waters, or the POTW's beneficial sludge use;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 5.5.

5.5 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Board and the Board approves the wastewater discharge permit transfer. The notice to the Board must include a written certification by the new owner or operator which:

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

B. Identifies the specific date on which the transfer is to occur; and

C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

5.6 Wastewater Discharge Permit Revocation

The Board may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. Failure to notify the Board of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to the Board of changed conditions pursuant ~~to Section 6.6 of this ordinance~~;

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self-monitoring reports and certification statements;

E. Tampering with monitoring equipment;

F. Refusing to allow the Board timely access to the facility premises and records;

G. Failure to meet effluent limitations;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedules;

K. Failure to complete a wastewater survey or the wastewater discharge permit application;

L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a User are void upon the issuance of a new wastewater discharge permit to that User.

5.7 Wastewater Discharge Permit Reissuance

A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.3 of this ordinance, a minimum of ninety (90) days prior to the expiration of the User's existing wastewater discharge permit.

SECTION 6—REPORTING REQUIREMENTS

6.1 CIU and NSCIU Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing CIUs currently discharging to or scheduled to discharge to the POTW shall submit to the Board a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become CIUs subsequent to the promulgation of an applicable categorical Standard, shall submit to the Board a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. CIUs described above shall submit the information set forth below.

(1) All information required in Section 4.3A (1) (a), Section 4.3A (2), Section 4.3A (3) (a), and Section 4.3A (6).

(2) Measurement of pollutants.

a. The CIU shall provide the information required in Section 4.3 A (7) (a) through (d).
b. The CIU shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the CIU should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Board;
d. Sampling and analysis shall be performed in accordance with Section 7.3 and 7.4;
e. The Board may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the CIU's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.14 A of this ordinance and signed by an Authorized Representative.

6.2 CIU Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(4) of this ordinance:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the CIU to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The CIU shall submit a progress report to the Board no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the CIU to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to the Board.

6.3 CIU Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any CIU subject to such Pretreatment Standards and Requirements shall submit to the Board a report containing the information described in Section 4.3A(6) and (7) and 6.1(B)(2) of this ordinance. For CIUs subject to equivalent mass limits established in accordance with the procedures in Section 2.2, this report shall contain a reasonable measure of the CIU's long-term production rate. For all other CIUs subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the CIU's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance. All sampling will be done in conformance with Section 7.

6.4 SIU Periodic Compliance Reports

A. All SIUs must, at a frequency determined by the Board submit no less than twice per year (June and December, or on dates specified) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the SIU must submit documentation required by the Board or the Pretreatment Standard necessary to determine the compliance status of the SIU.

B. The Board may authorize a CIU to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the CIU has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the CIU. [see 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the SIU wastewater discharge permit, but in no case longer than 5 years. The CIU must submit a new request for the waiver before the waiver can be granted for each subsequent SIU wastewater discharge permit.

(3) In making a demonstration that a pollutant is not present, the CIU must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 1.4C, and include the certification statement in 6.14 A (40 CFR 403.6(a)(2)(ii)).

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Board must be included as a condition in the CIU's permit. The reasons supporting the waiver and any information submitted by the CIU in its request for the waiver must be

maintained by the Board for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the CIU's permit by the Board, the CIU must certify on each report with the statement in Section 6.14 C below, that there has been no increase in the pollutant in its wastestream due to activities of the CIU.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the CIU's operations, the CIU must immediately: Comply with the monitoring requirements of Section 6.4 A, or other more frequent monitoring requirements imposed by the Board, and notify the Board.

(9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

C. All SIU periodic compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance.

D. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

E. If a SIU subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Board, using the procedures prescribed in Section 7.4 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Non-CIU Compliance Schedule Reports

Any non-CIU which is not in compliance with this ordinance shall develop a compliance schedule by which time the user shall meet the discharge prohibitions or requirements in Section 2 of this ordinance. The schedule should contain increments of progress, which correspond to specific dates for their completion. All users subject to these conditions shall submit a progress report to the Board no later than fourteen (14) days following each date in the compliance schedule. This report shall state if it complies with the increment of progress to be met on that date, the reason for delay if the date was not met, and the steps being taken to return to compliance. In no event shall more than six (6) months elapse between progress reports.

6.6 Reports of Changed Conditions

Each User must notify the Board of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

A. The Board may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

B. The Board may issue a wastewater discharge permit in response to changed conditions or anticipated changed conditions.

6.7 Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, any User shall immediately telephone and notify the Board of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Within five (5) days following such discharge, the User shall, unless waived by the Board, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural ~~resources, or any other damage to person or property; nor shall such notification~~ relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

D. SIUs are also required to notify the Board immediately of any changes at its facility affecting the potential for a Slug Discharge.

6.8 Reports from Non-SIUs

All Users not required to obtain a SIU wastewater discharge permit shall provide appropriate reports to the Board as required.

6.9 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Board within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Board within thirty (30) days after becoming aware of the violation. Resampling by the User is not required if the Board performs sampling at the User's facility at least once a month, or if the Board performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Board receives the results of this sampling, or if the Board has performed the sampling and analysis in lieu of the User. If the Board performed the sampling and analysis in lieu of the User, the Board will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis.

6.10 Notification of the Discharge of Hazardous Waste

A. Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. The User shall notify the POTW within 24 hours of becoming aware of the discharge. All notifications to EPA and the State must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.6 of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.

B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

C. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Board, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

6.11 Date of Receipt of Reports

Mailed, written reports will be deemed to have been submitted on the date postmarked. For written reports which are faxed, scanned and emailed, or hand-delivered, the date of receipt of the report shall govern.

6.12 Electronic Reporting

Upon approval, Users sending electronic (digital) documents to the Board to satisfy the requirements of this Section must meet the requirements or future requirements of EPA and Indiana regulations.

6.13 Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such

requirements, and documentation associated with Best Management Practices established under Section 2.4 C. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Board, or where the User has been specifically notified of a longer retention period by the Board.

6.14 Certification Statements

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 4.4; SIUs submitting baseline monitoring reports under Section 6.1 B (5); CIUs submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3; SIUs submitting periodic compliance reports required by Section 6.4 A–D, CIUs submitting an initial request to forego sampling of a pollutant on the basis of Section 6.4B(4), and non-SIUs submitting reports required by Section 6.8. The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 C:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the ~~information, the information submitted is, to the best of my knowledge and~~ belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

B. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the Board pursuant to 1.4 II(3) and 4.4 C must annually submit the following certification statement signed in accordance with the signatory requirements in 1.4 C. This certification must accompany an alternative report required by the Board:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.4 II (3);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

_____

_____

C. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 6.4 B must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 6.4.A.

SECTION 7—SAMPLING AND COMPLIANCE MONITORING

7.1 Representative Sample

All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

7.2 Control Manhole

All Users who discharge pollutants other than sewage to the POTW and who make a new connection or modify an existing connection to the POTW shall install a Control Manhole unless the Board determines that a Control Manhole is not required. In addition, the Board shall have the authority to require any User, at the User's expense, to install a Control Manhole if the Board determines that such a manhole is necessary to protect the POTW.

7.3 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Board or other parties approved by EPA.

7.4 Sample Collection

A. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Board. Where time-proportional composite sampling or grab sampling is authorized by the Board, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be

composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Board, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Board may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the SIU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

7.5 Right of Entry: Inspection and Sampling

The Board shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Board ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Board shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Board shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct independent sampling and/or metering of the User's operations.

C. The Board may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy. When the monitoring facility is constructed in the public right-of-way or easement, in an unobstructed location, the location of the monitoring

facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis. Whether constructed on public or private property, the monitoring facilities should be provided in accordance with the Board's requirements and all applicable local construction standards and specifications.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Board and shall not be replaced. The costs of clearing such access shall be born by the User.

E. Unreasonable delays in allowing the Board access to the User's premises shall be a violation of this ordinance.

7.6 Search Warrants

If the Board has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Board designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Board may seek issuance of a search warrant from the Grant Circuit or Superior Court, Grant County, Indiana.

SECTION 8—CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Board's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Board, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Board shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in SNC with applicable Pretreatment Standards and Requirements. The term SNC shall be applicable to all SIUs (or any other User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Board determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Board's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a SIU wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s), which may include a violation of Best Management Practices, which the Board determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may serve upon that User a written Notice of Violation. Within ten (10) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Board. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Board to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

The Board may enter into Consent Orders, assurances of compliance, or other similar ~~documents establishing an agreement with any User responsible for noncompliance. Such~~ documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing

The Board may order a User which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Board and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days

prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 1.4 C and required by Section 4.7 A. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

10.4 Compliance Orders

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User. If the User does not come into compliance within the time provided, sewer service may be discontinued.

10.5 Cease and Desist Orders

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Board may issue an order to the User directing it to cease and desist all such violations and directing the User to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.6 Emergency Suspensions

The Board may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Board may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the

operation of the POTW, or which presents, or may present, an endangerment to the environment.

A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Board may take such steps as deemed necessary; including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Board may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Board that the period of endangerment has passed, unless the termination proceedings in Section 10.7 of this ordinance are initiated against the User.

B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Board prior to the date of any show cause or termination hearing under Sections 10.3 or 10.7 of this ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

10.7 Termination of Discharge

In addition to the provisions in Section 5.6 of this ordinance, any User who violates the following conditions is subject to discharge termination:

A. Violation of wastewater discharge permit conditions;

B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

E. Violation of the Pretreatment Standards in Section 2 of this ordinance.

F. Failure to comply with administrative enforcement remedies in this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action

should not be taken. Exercise of this option by the Board shall not be a bar to, or a prerequisite for, taking any other action against the User.

10.8 Appeals

Any user affected by any decision, action or determination, including cease and desist orders, made by the Board, interpreting or implementing the provisions of this section or in any authorization issued herein, may file with the Board a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

If the ruling made by the Board is unsatisfactory to the person requesting reconsideration, he or she may, within ten (10) days after notification of Board action, file a written appeal to the Board. The written appeal shall be heard by the Board within thirty (30) days from the date of filing. The Board shall make a final ruling on the appeal within ten (10) days of the close of the meeting. The Board's decision, action, or determination shall remain in effect during that period of reconsideration.

SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may petition the Grant Circuit or Superior Court, Grant County, Indiana through the Board's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Civil Penalties

A. A User who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the Board for a maximum civil penalty of $2,500 for any first offense, and $7,500.00 for any second offense

per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. The Board may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Board.

C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.3 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Board may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Board's enforcement response plan. However, the Board may take other action against any User when the circumstances warrant. Further, the Board is empowered to take more than one enforcement action against any noncompliant User.

SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Payment of Outstanding Fees and Penalties

The Board may decline to issue or reissue a wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder.

12.2 Water Supply Severance

Whenever a User has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other

Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

12.3 Public Nuisances

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Board. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the Board for any costs incurred in removing, abating, or remedying said nuisance.

12.4 Contractor Listing

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the Board. Existing contracts for the sale of goods or services to the Board held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Board.

12.5 Cost Recovery

When a discharge of wastes causes an obstruction, damage, or any other impairment to the POTW, the Board may assess a charge against the user for the work required to clean or repair the facility and add that charge to the user's charges and fees. The User may be responsible for paying the following (but not limited to) costs:

1. Cost of mileage and labor incurred in detecting and correcting the violation;
2. Laboratory analysis costs associated with detecting and correcting the violation;
3. Additional treatment costs caused by the violation or associated with detecting and correcting the violation;
4. Costs of any additional equipment acquired or expended by the Board for detecting or correcting the violation;
5. Repair and/or replacement of any part of the sewerage system damaged by the violation;
6. Any liability, damages, fines or penalties incurred by the Board as a result of the violation;
7. Any and all expenses of outside professionals to include, but not limited to, engineers, scientists, and/or legal counsel; and
8. Other costs associated with the detection and correction of the violations.

SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 CIU Upset

A. For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the CIU. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.

C. A CIU who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the CIU can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The CIU has submitted the following information to the Board within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

(a) A description of the indirect discharge and cause of noncompliance;

(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the CIU seeking to establish the occurrence of an upset shall have the burden of proof.

E. CIUs shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

F. CIUs shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this ordinance or the specific prohibitions in Sections 2.1(B)(3) through (7) and (9) through (17) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the Board was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

13.3 Bypass

A. For the purposes of this Section,

(1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential

maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

C. Bypass Notifications

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Board, at least ten (10) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the Board of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Board may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

(1) Bypass is prohibited, and the Board may take an enforcement action against a User for a bypass, unless

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
(c) The User submitted notices as required under paragraph (C) of this section.

(2) The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

SECTION 14—WASTEWATER TREATMENT RATES

14.1 For the use of and the service rendered by said wastewater utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the Board's sanitary sewage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewage system of the City of Marion, Indiana, by or through any part of the sewage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

14.2 The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to those rates, as the same is measured by the water meter there in use, except as herein otherwise provided. The following rates and charges are hereby established for the use of and the service rendered by said wastewater utility of the City of Marion, Indiana, based on the amount of water used during each billing period on or in the property or premises subject to those rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

14.3 The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used each billing period:

A. Monthly Volume Charges - per 100 cubic feet

	Rates
Domestic Users:	
Treatment	$ .561
Conveyance	.126
Capital	.573
Total	$1.260

Manufacturing:	
Treatment	$ .561
Conveyance	.126
Capital	.443
Total	$1.130

B Billing Charge - per bill (not applicable to minimum bills)

$2.092

C Minimum User Charges

Meter Size	Rates Per Month
5/8 inch	$ 5.67
3/4 inch	8.19
1 inch	14.74
12 inch	32.95
2 inch	58.34
3 inch	131.42
4 inch	233.60
6 inch	525.80
8 inch	934.67

D Unmetered User Flat Charges - per month

Domestic Users:	
Single-family dwelling unit	$15.12
Multi-family	To be estimated by Utility
Manufacturing User	To be estimated by Utility

Estimates of monthly flat charges for multi-family residences shall be based on the number of family units accommodated by the system multiplied by the single-family residence monthly charge. Estimates of monthly flat charges for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes used and other pertinent sewer use indicators or based on outfall measurements where available.

E Regional Contract Charges

In the event the City consummates a contract to service as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for appropriate, lawful unit charges. The charge with respect to the current agreement with the Town of Sweetser, Indiana, is as follows:

Regional Contract Charges - per 100 cubic feet	
Treatment	$ .494
Conveyance	.049
Capital	.179
Total	$ .722

In addition to the above volume charges, each contract customer shall pay the following charges:

Monthly Billing Charge	$ 2.00

Quarterly Surveillance Charge $157.50

14.4 Excessive Strength Surcharge

A. The monthly rate of surcharge for each constituent shall be as follows:

1)	For BOD/COD	- 16.8 cents per pound
2)	For suspended solids	- 16.8 cents per pound
3)	For phosphorus	- 159.3 cents per pound

B. Each user discharging waste into the wastewater collection system shall be subject to an excessive strength surcharge in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than as follows:

1) Biochemical oxygen demand of 200 milligrams per liter.
2) Chemical oxygen demand of 400 milligrams per liter.
3) Suspended solids content of 250 milligrams per liter.
4) Phosphorous concentration of 10 milligrams per liter.

C. Sampling and Testing for Surcharges or User Charges. The discharged sewage shall be sampled during each sewage billing period for a minimum of a one (1) day period, i.e., twenty-four (24) hours, by means of a composite sample. An extended sampling period of up to one (1) week, i.e., seven (7) continuous days, or reduction may be requested to enable the gathering of a sample representative of a business' sewage. The extension or reduction of the sampling period beyond the initial one (1) day sampling period may be requested by either the sewer user involved or the Board. If an extended sampling period is requested, the parameter values used to calculate the surcharge shall be the arithmetical average of the individual values. If a user has multiple discharges of sewage, each discharge shall be sampled according to quality. The volume of each discharge shall be determined by actual measurement or by means of process usage. If significant process changes are made to affect quality of any discharge, resampling may be requested by either the user involved or the Board.

The sample shall be measured for the following parameters: Biochemical oxygen demand (BOD) or Chemical Oxygen Demand (COD), suspended solids (SS) and phosphorus. These tests shall be conducted in accordance with the Code of Federal Regulations, Title 40, Part 136, Guideline Establishing Test Procedures for the Analysis of Pollutants.

D. Computation of Surcharge. The excess of pounds of COD/BOD (whichever is greater than the minimum stated above), suspended solids and/or phosphorus shall be computed by multiplying the sewage billing volume measured in units of one hundred (100) cubic feet for the current sewage billing period by the factor 0.006238 and then multiplying the difference between the concentration measured in milligrams per liter

of the BOD/COD, suspended solids and phosphorous, respectively, in the customers sewage and the allowed concentrations set out in 14.4 B, resulting in pounds of each constituent. The surcharge of each constituent shall then be determined by multiplying the excess pounds of each constituent by the appropriate surcharge set forth in 14.4 A.

E. Revision of Rates of Surcharge. As deemed necessary, the Utility Director shall submit to the Board a detailed report showing cost for removing BOD/COD, suspended solids and phosphorus from wastewater treatment plant influent during the previous calendar year with the unit charges currently in effect so that the Board may determine if the current rates are adequate or should be changed.

14.5 Waste Evaluation Charges All users discharging wastes into the system requiring continuing surveillance, sampling and waste evaluation shall be subject to a quarterly fixed charge to cover the costs of such services in the amount of $157.50 per discharge point. The analytical fees shall be as established by the Board.

14.6 Deposit. The Utility may require from each applicant for wastewater service a cash deposit of $60.00 as a guarantee against the non-payment of bills for service. However, if the applicant is an owner of real property whose credit is approved by the Utility, the deposit may be waived. If the customer's bill remains unpaid for a period of five (5) days after the date of the final bill or the date of discontinuance of service, the amount of that bill shall be deducted from the deposit and the balance, if any, will be remitted to the depositor.

14.7 Other Provisions In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by the applicable sections of the Marion Municipal Code, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a User Charge system acceptable to the City and in conformance with the City's obligations under Sec. 204B(1), Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35.928-1 and 35.928.2, and 35.935.13.

14.9 Wastewater Volume Determination

A. Metered Water Supply. User charges and fees shall be based upon the total amount of water used from all sources unless, in the opinion of the Board, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources shall be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the Board.

B. Metered Wastewater Volume and Metered Diversions. For users where, in the opinion of the board, a significant portion of the water received from any material sources does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the user charges and fees shall be applied against the

volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water shall be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the Board and at the user's expense. These meters may measure either the amount of sewage discharge or the amount of water diverted. These meters shall be tested for accuracy at the expense of the user when deemed necessary by the Board.

C Estimated Wastewater Volume.

(1) Users without source meters. For users where, in the opinion of the Board, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the Board. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.

(2) Users with source meters. For users who, in the opinion of the Board, divert a significant portion of their flow from a sanitary sewer, the user charges may be based upon:

(a) direct measurement of the diverted flow or

(b) an estimate of the volume prepared by the user provided the user obtains Wastewater Discharge Authorization and pays the applicable user charges and fees. The estimate shall include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

SECTION 15—MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges and Fees

The Board may adopt reasonable fees for reimbursement of costs of setting up and operating the Board's Pretreatment Program.

15.2 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 16—EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

Any User who was discharging wastewater into the POTW prior to the effective date of this ordinance and is in violation of this ordinance, but who wishes to continue discharging, shall, within thirty (30) days after said effective date, submit a compliance schedule to the Board in accordance with Section 6.1 or 6.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after one-hundred eighty (180) days of the effective date of this ordinance except in accordance with an approved compliance schedule.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 3 day of August, 2010.

Madonna M Barnett
Presiding Officer

ATTEST:
Kathleen Tiely
City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 4 day of August, 2010.

Kathleen Tiely
City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 5 day of Aug, 2010.

Mayor, City of Marion, Indiana

CITY OF MARION, INDIANA
MARION UTILITY SERVICE BOARD
WASTEWATER RULES AND REGULATIONS

A. **Definitions**

For the purpose of this Code section, the following words and phrases shall have the meanings respectively ascribed to them below:

(1) BIOCHEMICAL OXYGEN DEMAND OR BOD - The quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five (5) days at twenty degrees (20^0) Centigrade. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods."

(2) BOARD - means the City Utility Service Board or any duly authorized officials acting on its behalf.

(3) BUILDING OR HOUSE DRAIN - That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to a point approximately three (3) feet outside the foundation wall of the building.

(4) BUILDING OR HOUSE SEWER - The pipe which is connected to the building or house drain at a point approximately three (3) feet outside the foundation wall of the building and which conveys the building's discharge from that point to the public sewer or other place of disposal.

(5) CHEMICAL OXYGEN DEMAND OR COD - A measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in "Standard Methods."

(6) EFFLUENT - The water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle or outlet.

(7) GARBAGE - Any solid wastes from the preparation, cooking or a dispensing of food and from the handling, storage or sale of produce.

(8) GROUND GARBAGE - Garbage that is shredded to such a degree that all particles will be carried freely in suspension under the conditions normally prevailing in public sewers, with no particle being greater than one-half (1/2) inch in dimension.

(9) INDUSTRIAL WASTES - Any solid, liquid or gaseous substance or form of emergency discharged, permitted to flow or escaping an industrial, manufacturing, commercial or business process or from the development, recovery or processing of any natural resource carried on by any person.

(10) INFLUENT - The water, together with any wastes that may be present, flowing into a drain, sewer, receptacle or outlet.

(11) OUTLET - Any outlet, natural or constructed, which is the point of final discharge of sewage or of treatment plant effluent into any watercourse, pond, ditch, lake or other body of surface or ground water.

(12) pH - The logarithm, to the base 10, of the reciprocal of the hydrogen ion concentration of a solution expressed in gram-atoms per liter of solution.

(13) RECEIVING STREAM - The water course, stream or body of water receiving the waters finally discharged from the sewage treatment plant.

(14) RESIDENTIAL PROPERTY UNIT - A building under one (1) room designed, arranged and used primarily for dwelling purposes by a single family.

(15) SANITARY SEWAGE - Sewage discharged from the sanitary convenience of dwellings, including apartment houses and hotels, office buildings, factories or institutions and free from storm water, surface water and industrial wastes.

(16) SERVICE CHARGE - The basic assessment, based on water usage, levied on all users of the public sewerage system for wastes which do not exceed in strength the concentration values above which a strength-of-wastes surcharge will be made.

(17) SEWAGE - The water-carried wastes from residences, business buildings, institutions and industrial establishments, singular or in any combination, together with such ground, surface and storm waters as may be present.

(18) SEWAGE TREATMENT PLANT OR WATER POLLUTION CONTROL PLANT -

The arrangement of devices, structures and equipment used for treating and disposing of sewage and sludge.

(19) SEWAGE UTILITY OR WATER POLLUTION CONTROL UTILITY - All facilities for collecting, transporting, pumping, treating and disposing of sewage and sludge, namely the sewerage system and the sewage treatment plant.

(20) SEWER - A pipe or conduit for carrying sewage or other waste liquids.

(21) SEWER, COMBINED - A sewer which carries both storm, surface and ground-water runoff and sewage.

(22) SEWER, PUBLIC - A sewer in which all owners of abutting property have equal rights and which is controlled by public authority.

(23) SEWER, SANITARY - A sewer which carries sewage and to which storm, surface and ground waters and unpolluted industrial waste waters are not intentionally admitted.

(24) SEWER, STORM - A sewer which carries storm, surface and ground water drainage but excludes sewage.

(25) SEWERAGE SYSTEM - The network of sewers and appurtenances used for collecting, transporting and pumping sewage to the sewage treatment plant.

(26) STANDARD METHODS - The examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater," published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

(27) SUPERINTENDENT - The superintendent of the sewage treatment plant or water pollution control plant of the city or his or her duly authorized representative.

(28) SURCHARGE - A charge for sewerage services in addition to the basic service charge.

(29) SURCHARGE, STRENGTH-OF-WASTES - The extra charges for sewerage service assessed customers who sewage is of such a nature that it imposes upon the sewage utility a burden greater than that covered by the basic service charge.

(30) SUSPENDED SOLIDS - Solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determinations shall be made in accordance with procedures set forth in "Standard Methods."

(31) UTILITY - The City Water and Wastewater utility owned by the City, operated and managed by the City Utility Service Board and engaged in furnishing public water supply and wastewater service in the City and its environs.

(32) UTILITY ENGINEER - The chief City sewer engineer or his or her duly authorized representative; the term shall be equivalent to the expression "water pollution control engineer."

(33) WATERCOURSE - A channel in which a flow of water occurs either continuously or intermittently.

B. Rules and Regulations on File

A copy of all rules and regulations under which wastewater service shall be rendered is filed for public inspection in the Utility general office. These items are incorporated by reference into this Code section in accordance with Indiana Code 36-1-5, with two (2) copies being on file in the Office of the City Clerk and available for public inspection.

C. Authority of Utility Service Board

The City Utility Service Board shall, in accordance with the State law, make and enforce whatever bylaws, rules and regulations it deems necessary for the safe, economical and

efficient management of the wastewater utility, for the construction and use of building sewers and connections to the sewerage system including storm water and surface drainage, for the regulation, collection and refunding of the rates and charges for wastewater service and for the extension or replacement of sewer mains.

D. Connections to Public Sewers

No owner or occupant of any real property shall tap or drain either directly or indirectly into any public sewer until a sewer tap permit has been obtained and until that person has satisfied his or her obligation to pay all assessments, reimbursements or pro rata shares of sewer extension costs laid against the property for public sewers installed to serve it.

Tap permits shall be obtained from the Utility Engineering department and shall be issued only to licensed sewer tap contractors. After making each sewer tap and building sewer installation, the tap contractor shall notify the Utility Engineering department at least three (3) hours in advance so that the tap and building sewer can be inspected and approved before the excavation is backfilled.

All sewer permits shall be valid for one (1) year after date of issue shown on the permit. If work is not completed in this year, it shall be necessary to secure a new permit.

Any tap or building sewer installation not made in accordance with the foregoing provisions shall be deemed an illegal installation and upon discovery, shall be promptly disconnected until the provisions of this Code section have been complied with.

E. Downspouts, Yard Drains and Storm Water

The Utility may require an owner of real property to disconnect from a building sewer which drains into a sanitary sewer any downspouts, yard drains or other drains which carry the runoff from natural precipitation. Property owners shall have thirty (30) days' notice to comply with any such requirements.

F. Determination of Charges

The charges made for sewerage service rendered to each lot, parcel of real estate or building having any connection with the Utility sewer system or otherwise discharging sewage into that system either directly or indirectly, shall be based upon the quantity of water presumed to enter the public sewers after being used in or on the property, as the quantity is measured by the water meters or meters in use by the water utility except as provided in this Code section

Where the property obtains any part or all of the water used from sources other than the City Water Utility, the owner or the tenant may be required by the Utility to install and maintain at his or her own expense a meter or meters acceptable to the Utility for the purpose of measuring the quantity of water obtained from these other sources or the Utility may determine the quantity of that water by whatever means and methods it may find practicable.

The Utility may require an owner, tenant or business to install and maintain at his or her expense an approved device to directly measure the quantity of waste discharged to the sewerage system if these quantities cannot otherwise be determined from the metered water consumption records. The Utility shall inspect and approve that installation and no such metering device, once installed, shall be removed without the approval of the Utility.

G. Billing of Service Charges

Charges for sewer service shall be prepared and billed by the Utility office along with the bills for water service and shall be payable at the office at the same time as the water bills. Residential service shall be billed quarterly and industrial service monthly.

H. Liability for Payment

The charges for sewer service shall be billed to the person receiving that service unless, by contract with the Utility, another person assumes such responsibility. If a tenant is billed, the owner shall in no way be relieved of liability if required payments are not made by the

tenant. That owner shall have the right to examine the Utility's collection records during regular business hours to ascertain whether those charges have been paid.

I. Delinquent Accounts

Charges for sewer service shall be due and payable on or before the dates shown on the bills. Any sewer service charge not paid by the date, approximately fifteen (15) days after the bill is rendered, shall be considered delinquent. A delinquent charge together with any applied penalty shall be collectible as set forth below:

(1) Collection-By Shutting Off Water Service

Where the property having a delinquent sewer account is served by the water utility, the Utility may, after mailing a written notice at least ten (10) days in advance to the water customer and to the property owner, shut off water service to the property. The water service shall not be turned back on until the delinquent service charges and the costs of turning water service off and back on have been paid.

(2) Collection-Through Tax Duplicate

As provided by State law, delinquent sewer service charges may be made a lien against the property served through certification to the County Auditor and County Recorder. In that case, the delinquent service charges, together with a mandatory penalty of ten (10) per cent, shall be placed on the tax duplicate and be collected in the same manner as regular taxes and assessments are collected.

J. Collection - Through Court Actions

In addition to the foregoing remedies, the Utility may bring a civil action to recover any delinquent charges together with a penalty of ten (10) per cent and a reasonable attorney's fee.

K. **City Subject to Rates and Charges**

The City shall be subject to the same rates and charges herein established for other persons.

L. **Obstructing or Damaging Sewers**

If a public sewer becomes obstructed or damaged through discharge of prohibited materials, the person responsible for that discharge shall be billed and shall pay for the expenses incurred by the Utility in cleaning out, repairing or rebuilding the sewer.

M. **Grease and Sand Traps**

When the Utility Engineering department determines that interceptors or traps are needed to protect the sewer system or the operations of the wastewater plant from grease, oil, sand or similar substances occurring in a customer's discharge, then such traps shall be installed by the customer on his or her own lines at his or her own expense and shall be maintained by him or her so that none of such substances can be carried over into the public sewers. All traps shall meet the Utility standards as to construction, location and installation.

N. **Connection To Public Sewer Required**

Every City property holder shall connect to the City sewerage system when a sanitary or combined sewer is in a street, alley or easement abutting the property. A connection shall be made to the public sewer within ninety (90) days after that sewer is available.

Any and all septic tanks or private sewerage systems of any kind existing in or on premises where a public sewer is available shall be discontinued, emptied of its contents, cleaned out and filled with earth or stone, and the house sewer shall be disconnected from the private sewerage system and be connected to the pubic sewer.

No owner or lessee of any lot or parcel of land within the City shall place, deposit, or permit to be deposited, any human excrement, garbage, or any other organic waste upon the premises so that it is exposed to flies, rodents, domestic animals, or endangers a water supply.

O. Building or House Sewers

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance of it without first obtaining a written permit from the Utility Engineering department.

(2) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Utility for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(3) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and where no private sewer is available or can be constructed to the rear building through an adjoining alley, court or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(4) A building sewer shall not cross the property of another private owner unless that private owner has granted an easement for that building sewer which is duly recorded in the office of the County Recorder.

(5) Old building sewers may be used in connection with new buildings only when they are found, upon examination and test, to meet the current code requirements for building sewers.

(6) The size, slope, alignment, materials of construction, methods of excavation, placing pipe, jointing methods; testing and backfilling of the building sewer shall conform to the applicable rules and regulations of the Utility engineering department or the State.

(7) In all buildings in which any building drain is too low to permit gravity flow into the public sewer, sanitary sewage carried by that building drain shall be lifted by an approved means and discharged to the building sewer.

(8) No person shall make connections of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the applicable rules of the Utility engineering department. All such connections shall be made gas and water tight.

(10) After making each building sewer installation, the contractor shall notify the Utility Engineering department so that the tap and building sewer installation can be inspected and approved before the excavation is backfilled.

(11) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property shall be restored in a manner satisfactory to the City Engineer.

P. Connection of Building Sewer to Sewer Main

The building sewer shall generally enter the sewer main or lateral by way of an existing wye or tee. If there is no wye or tee, the connection to the sewer main or lateral shall be made by one of the methods indicated below. If another method is desired, a detail shall be submitted for review and approval by the Utility Engineer before the connection is made. Indiscriminate breaking of the sewer main pipe shall not be permitted.

(1) Installation of a manhole.

(2) Circular saw-cut of sewer main by proper tools such as a "Shewer Tap" machine, and proper installation of hub wye saddle or hub tee saddle, in accordance with the manufacturers specifications.

(3) Remove an entire section of pipe and replace with a wye or tee branch section. Pipe section shall be removed by breaking only the top of one bell. After the wye or tee branch is inserted, concrete shall be placed over the broken area to a minimum thickness of four (4) inches and a minimum dimension of eight (8) inches in all directions.

(4) Using a pipe cutter, neatly and accurately cut out the desired length of pipe for insertion of proper fitting. Use "Band Seal" couplings or similar couplings with stainless steel shear rings and clamps to fasten the inserted fitting and hold it firmly in place. Follow the manufacturer's recommendations for installation.

Connection of the building sewer to the wye or tee shall be made with a flexible type water-tight connection. Acceptable connections are Clow Corporation's Band Seal Rubber Ring Adaptors, Band Seal couplings or approved equal.

Q. Sewer Extension

All new developments, subdivisions, apartment complexes, shopping centers, hotels, restaurants, or any other commercial or industrial development shall include adequate sanitary and storm sewer systems.

If adequate public sewers do not exist, then the developer shall extend or cause to be extended adequate public sewers. Plans for any public sanitary sewer extension must be approved by the Utility Engineering department. All extensions shall be designed and constructed in accordance with the current requirements of the Utility Engineering department and the State Board of Health.

Any sewer extensions accomplished without prior review and approval of the Utility Engineering department and inspection during construction shall be deemed an illegal extension and upon discovery, shall be promptly disconnected from the Utility's sewerage system.

R. Sewer Main Extension Policy

If any person desiring service from the City Utility requires a sewer main extension, that person shall pay for the cost of the extension. The purpose of this policy is to place the cost of the installation of local sewer mains upon the owners of the properties benefitted.

Large main, interceptors and relief sewers shall be paid for by the Utility providing funds are available. For the purposes of this Code section, a local sewer means one which by its size and character, is designed and intended to supply sanitary sewer service with adequate capacity for peak flows, only for properties abutting the street, alley, easement or other public land in which the sewer is laid but which is not designed and intended to serve collateral sewers necessary for non-abutting properties.

This extension policy shall be applied as set forth below:

(1) Free Extensions

The Utility shall, upon written request for service from a prospective customer or a group of prospective customers located in the same neighborhood, make free of charge an extension necessary to give service to the petitioning prospective customers when the total estimated revenue for a period of six (6) years, from the prospective customer or customers is approximately equal to the cost of the extension if, in the judgment of the Utility, the prospects are that the patronage or demand for sewer service shall be of such permanency as to warrant the expenditure involved.

(2) Extension Above Free Limit

If the extension required in order to furnish service at any point within the City limits or for any adjacent or contiguous suburb of the City, is greater than the free extension specified in this subsection, that extension shall be made under the following conditions:

(a) Petition For Service

Upon the presentation of a written petition for sewer service by an

interested person or persons, the Utility shall enter into an agreement with those petitioners covering the necessary main extension, describing the installation, the method of apportioning costs among the petitioners, the total estimated cost if possible and other relevant facts and undertakings. That agreement shall contain a statement by the petitioners that they are willing to pay their proportionate share of the main extension if the project is constructed. Detailed engineering design shall not proceed if the petitioners do not agree to pay the necessary cost of the extension over and above the free limit as described herein. Petition good for one (1) year. The Utility may grant an extension of time.

Preliminary engineering investigations shall be conducted at Utility expense for the benefit of petitioners. If those investigations require an excessive amount of time and cost in the judgment of the Utility Manager, a charge shall be applied to cover the cost prior to initiating work.

(b) Engineering and Detailed Cost Estimate

When the petitioners agree in writing to pay their proportionate share of the main extension, the Utility shall conduct the necessary field survey work and engineering design resulting in a detailed engineers' estimate, the project cost shall be allocated proportionately between the petitioner or petitioners.

(c) Contract For Service

Upon completion of the engineers' estimate, the Utility shall enter into a sewer main extension contract with those petitioners which shall include a description of the installation, the estimated cost, the method of apportioning costs among the petitioners, arrangement for payment and other relevant facts and undertakings.

(d) Initial Deposit

Prior to advertising for bids or starting construction as the case may be, the petitioners shall deposit their share of the main extension with the Utility. The total initial deposit shall be made either in a cash payment or by an irrevocable letter of credit acceptable to the Utility and issued by a national banking association or a bank chartered under the State laws

or secured in any other manner which is mutually acceptable to the parties and which guarantees payment of the deposit immediately upon completion of construction of the extension.

When the total initial deposit has been made, the Utility shall advertise for bids on the project, award the bid and begin construction. Upon receipt of firm bid prices, the estimated project cost shall be adjusted to actual and the cost to the petitioners adjusted accordingly.

(e) Cost Basis

The amount to be paid by petitioners for a main extension shall be the total costs of contractual labor and expense, Utility labor and expense, material, including handling charges and hauling costs, inspection, testing, overhead and engineering. Where feasible, petitioners may, by agreement with the utility, furnish all or part of the foregoing cost elements, except inspection and testing. However all those cost elements furnished shall conform to the standards of the Utility and the Utility shall be given certified statements of the actual costs of such elements paid for by the petitioners.

(f) Engineering and Oversizing

Main extension design and specifications shall either be prepared by the Utility engineering department or be approved by the Utility Engineer before installation when done by others. No pipe size smaller than that required to give that party adequate sewer service nor less than eight (8) inches in diameter shall be used.

If the design for future use or other engineering considerations indicate the need for a sewer main larger than eight (8) inches, then the Utility shall assume the cost for oversizing providing funds are available.

The computation of cost, either actual or estimated, shall be based on an eight (8) inch main, unless a larger main is determined by the Utility to be reasonably necessary to serve the proposed customer or customers. In that case, the cost, estimated or actual, shall be based on the size of the main required.

(g) Ownership of Mains

After completion and acceptance by the Utility, the sewer main extension shall become the property of and shall be maintained by the Utility. The Utility may connect additional sewer mains to an extension without incurring any financial obligation to persons sharing the cost of the first extension.

(h) Refund Provision[1]

The contract between the Utility and the original petitioners shall provide that any person who did not share the original cost of the extension and who wishes to use the extension within a period of fifteen (15) years from the date of the acceptance of that extension shall be required to pay a fair and proportionate share of the original cost of the extension.

The amount of the share collected from that new customer shall be based on a fixed connection charge as follows;

Single Family Residences	$2,000.00
6" Connections (Except Single Family)	$4,500.00
8" Connections	$8,000.00
10" Connections	$12,500.00
12" Connections	$18,000.00
15" Connections	$28,125.00

This additional share shall be refunded equitably to the original depositors annually or more frequently at the discretion of the Utility. The total amount refunded shall not exceed the amount of the original cost of the extension.

(i) Exclusion of New Subdivisions

New subdivisions shall be excluded from eligibility for refund agreements. The developer shall pay the entire cost of the necessary sewer main construction and recover the cost in the lot price.

[1] Amendment approved 10/17/02 by MUSB

Sewer main extensions from the terminus of existing sewer mains to the subdivision which would be subject to future connections are eligible for refund agreements.

(j) Recording Extension Contracts

In order to insure collection of share and connection charges for those providing funds for sewer main installations, the Utility shall file the original sewer main extension contracts with the County Recorder.

(k) Waiver of Protest To Annexation

Petitioners for sewer main extensions and sewer service outside the City limits shall be required to execute a written agreement that the owner and his or her successors in title and assigns waive any rights to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by the City as a condition of receiving that sewer main extension and sewer service.

(l) Lateral Extensions[2]

The Utility may connect additional sewer mains to an extension without incurring any financial obligations to persons sharing the cost of the first extension. However, the Utility shall not permit a prospective customer whose property is contiguous to the first extension to obtain service for an additional extension installed laterally from said first extension unless the customer pays a proportionate share of the cost of the first extension. The Utility shall collect in advance from the owner of that property a fixed connection charge as follows:

Single Family Residences	$2,000.00
6" Connections (Except Single Family)	$4,500.00
8" Connections	$8,000.00
10" Connections	$12,500.00
12" Connections	$18,000.00
15" Connections	$28,125.00

[2] Amendment approved 10/17/02 by MUSB

S. **Connection Fee**

If an applicant for sewer service is connected to a sewer main which has not been financed by a refund agreement or by the abutting property owners or any other individual or group of individuals, that applicant shall pay to the Utility a connection charge of Four Hundred Dollars ($400.00).

T. **Feasibility of Extension**

The Utility shall not be required to make extensions under subsection (S) unless the customers initially to be served by that extension shall contract to use the service for a period of three (3) years.

U. **Abandoned Building Sewers**

All abandoned building sewers shall be cut off and sealed with concrete to prevent entrance of surface water and debris.

V. **Delinquent Sewer Bills**

If a property having a delinquent sewage bill is served by the water utility, the Utility may, after mailing a written notice at least ten (10) days in advance to the water consumer and to the property owner, shut off water service to the property. The water service shall not be turned back on until the delinquent service charges and the costs of turning water service off and on have been paid.

W. **Billing For Available Sewer**

If a sanitary or combined sewer is located in any street or alley adjacent to or within two hundred (200) feet of any lot or parcel of land occupied by any residential,

commercial or industrial building, the Utility shall bill the occupant or owner of that residential, commercial or industrial building whether the available sewer is used or not.

X. Maintenance of Building Sewers

The property owner is responsible for construction and maintenance of the building sewer from the building to the point of attachment of the public sewer.

Y. Other Basis For Extensions

None of the above rules and regulations shall prevent the Marion Utility Service Board from extending water and sewer lines under a different policy so long as the public interest is thereby served.

Approved As Amended by the
Marion Utility Service Board
October 17, 2002

RESOLUTION 1 - 2001

RESOLUTION OF THE MARION UTILITY SERVICE BOARD
FOR ADOPTION OF RULE AND REGULATION PERTAINING TO
EXTENSION OF WATER AND SEWER LINES
MEETING CERTAIN REQUIREMENTS WITHIN AN URBAN ENTERPRISE ZONE
IN THE CITY OF MARION, INDIANA

WHEREAS, the Marion Utility Service Board (hereinafter "Board") has been given rule and regulatory power with respect to the installation of water and sewer lines in the City of Marion; and

WHEREAS, it is specifically provided under City Code Sections 36-9-2-14 and 36-9-2-17 that no provision in the existing City Code shall prevent the Board from extending water and sewer lines under a policy that is different from the policy in existence so long as the public interest is thereby served; and

WHEREAS, the City of Marion is currently experiencing difficult economic conditions and the community has experienced a substantial reduction in the number of jobs due to plant closings and loss of businesses in the community; and

WHEREAS, the Board believes that it would be in the best interest of the community and of the Marion Municipal Utilities to adopt a resolution whereby the Board, in certain cases and under certain conditions, may authorize the utilities under its jurisdiction to participate in the extension of utility service lines subject to certain conditions and restrictions or qualifications.

NOW THEREFORE, BE IT RESOLVED, that the Marion Utility Service Board amends its existing water and waste water regulations by adopting the following regulation in an open meeting and after due consideration to provide and read as follows:

> Regulation No. ____. Extension of Water and Waste Water Service Lines in Urban Enterprise Zone. Whenever an applicant for water or waste water services owns or leases property in an Urban Enterprise Zone within the City of Marion and makes application for the repair, replacement or extension of service lines from existing mains to the applicant's property line, the applicant may petition the Marion Utility Service Board for participation in the installation or reinstallation of those lines provided the applicant can meet the following criteria:
>
> (a) The property owner is a not for profit organization;

(b) The applicant can demonstrate to the satisfaction of the Board that it will provide at least 100 new jobs in the community with pay and benefits that will exceed minimum wage by at least $4.00 per hour;

(c) The proposed costs to the Utilities will not exceed a sum equal to $100.00 per new job being created;

(d) The projected estimated volume of water usage and waste water being discharged into the system will generate sufficient revenue whereby the Utilities will be able to recoup the costs to the Utilities within 6 years; and

(e) The property owner will agree and acknowledge in writing that the owner will continue to be responsible for the maintenance and repair of the service lines after the installation or reinstallation is concluded.

Before the Board agrees to participate in the installation or reinstallation of the services lines, the Board must be satisfied that all of the above criteria have been met. The Board may impose any other conditions or limitations which it deems proper under the circumstances and in the best interest of the Marion Municipal Utilities and the public.

Copies of this Resolution shall be made available to the public by providing copies for inspection in the Business Office of the Marion Municipal Utilities and in the Office of the Marion City Clerk.

Adopted at a regular and open meeting of the Board this 18th day of October, 2001.

MARION UTILITY SERVICE BOARD

By _____
William E. Dorsey, Chairman

Attest:

Ruthanna Nestleroad

Ruthanna Nestleroad, Secretary

Passed and Adopted 1994

GENERAL ORDINANCE NO. 32 - 1994

AN ORDINANCE AMENDING THE MARION CITY CODE PERTAINING TO LIMITATIONS ON DAILY DISCHARGE OF METAL CONSTITUENTS INTO THE MARION WASTEWATER SYSTEM

WHEREAS, the Marion Utility Service Board has recommended to the Common Council of the City of Marion an amendment to the Marion City Code pertaining to limitations on daily discharge of certain metal constituents into the Marion Wastewater system; and

WHEREAS, the Board and the Council believe that said proposed amendment is in the best interests of the Utility and its users, and should be adopted;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

Section 36-9-2-17(b) 2.08.3 appearing on page 763 of the Marion City Code is hereby amended by adding the following constituents and daily average concentrations:

2.08.3 (continued)

Constituents	Concentration (mg/l)
Silver	0.20
Zinc	5.00
Mercury	0.10
Nickel	2.00
Sulphide (as S)	10.00
Cyanide	1.00
Phenol	0.50
Cyanide (Amenable to Chlorine)	0.50

SECTION II

This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 20 day of Dec, 1994.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 21 day of November, 1994.

Kathleen A. Kelly
City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 22nd day of Dec., 1994.

Mayor, City of Marion, Indiana

Marion Municipal Utilities

Memo

To: Utility Managers

From: Ruthanna

CC:

Date: 4/11/2011

Re: Sewer Rate Ordinance & Attachment

I have attached the current Sewer Rate Ordinance and Minimum Usage Equivalent Chart that was approved at Thursday's board meeting. Please place a copy in your Ordinance Book and where ever else it is convenient for you.

GENERAL ORDINANCE NO. 2 -1993 as amended

AN ORDINANCE AMENDING GENERAL ORDINANCE NO. 36-1991 AND ALL OTHER ORDINANCES IN CONFLICT HEREWITH, FIXING A NEW SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM USERS AND OWNERS OF PROPERTY SERVED BY THE WASTEWATER UTILITY OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH.

WHEREAS, The City of Marion, Indiana, has heretofore constructed and has in operation a wastewater collection system and treatment plant for the purpose of collecting and treating sewage wastewater and conveying the same away from the premises where produced; and,

WHEREAS, The City of Marion, Indiana, has completed a study to expand and improve its wastewater collection system and treatment plant; and

WHEREAS, The City of Marion has conducted a financial study and determined that the existing sewage rates and charges are not sufficient for the costs of operation, maintenance, capital improvements, debt service and to make payments to the City of Marion in lieu of property taxes; and

WHEREAS, Indiana Code 36-9-23-25 and 36-9-23-26 and the Acts amendatory and supplemental thereto, require that the rates and charges to be collected for the use of and the service rendered by such sewage wastewater works be collected for the use of and the service rendered by such sewage wastewater works be fixed by ordinance, finally adopted after due notice and public hearing,

WHEREAS, the report of HNTB Engineers of Indianapolis,

Indiana, has been tendered to the Utility Service Board setting forth certain extensions and improvements needed to improve service provided by the sewage works to patrons of the system and for the long-term benefit of the City of Marion, Indiana.

NOW, THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That General Ordinance No. 36-1991 be amended to set the schedule of rates and charges to be collected by the City of Marion, Indiana, from the owners of property and users served by the wastewater utility of said City, to read as follows: Section 1. For the use of and the service rendered by said wastewater utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates, as the same is measured by the water meter therein in use, except as herein otherwise provided. That the following sewage rates and charges be, and the same are hereby established

for the use of and the service rendered by said wastewater utility of the City of Marion, Indiana, based on the amount of water used during each billing period on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

(b) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used each billing period:

1) Monthly Volume Charges - per 100 cubic feet

	Proposed Rates
Domestic Users:	
Treatment	$ .561
Conveyance	.126
Capital	.573
Total	$ 1.260
Manufacturing:	
Treatment	$ .561
Conveyance	.126
Capital	$ .443
	$ 1.130

2) Billing Charge - per bill (not applicable to minimum bills) $ 2.092

3) Minimum User Charges - per month

Meter Size	Proposed
5/8 inch	$ 5.67
3/4 inch	8.19
1 inch	14.74
1 1/2 inch	32.95
2 inch	58.34
3 inch	131.42
4 inch	233.60
6 inch	525.80
8 inch	934.67

4) Unmetered User Flat Charges - per month

Domestic Users:	
Single Family Residence	$ 15.12
Multi-Family Residence	To Be Estimated by Utility
Manufacturing User	To Be Estimated by Utility

Estimates of monthly flat charges for multi-family residences shall be based on the number of family units accommodated by the system multiplied by the single family residence monthly charge. Estimates of monthly flat charges for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes used and other pertinent sewer use indicators or based upon outfall measurements where available.

5) Regional Contract Charges

In the event the City consummates a contract to service as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for appropriate, lawful unit charges. The charge with respect to the current agreement with the Town of Sweetser, Indiana, is as follows:

MARION SEWAGE WORKS
Marion, Indiana

Schedule of Proposed Rates

	Proposed Rates
Regional Contract Charges - per 100 cubic feet	
Treatment	$ ~~0.181~~ .494
Conveyance	~~0.018~~ .049
Capital	~~0.123~~ .179
Total	$ 0.722

In addition to the above volume charges, each contract customer shall pay the following charges:

Monthly Billing Charge	$ 2.00
Quarterly Surveillance Charge	$ 135.00 157.50

6) Excessive Strength Surcharge

Each user discharging waste into the wastewater collection system shall be subject to an excessive strength surcharge in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such waste are in concentrations greater than as follows:

a) Biochemical oxygen demand of 200 milligrams per liter.

b) Chemical oxygen demand of 400 milligrams per liter.

c) Suspended solids content of 250 milligrams per liter.

d) Phosphorous concentration of 10 milligrams per liter.

Computation of Surcharge

The surcharge shall be determined as follows:

a) The excess of pounds of COD/BOD (whichever is greater than the minimum stated above), suspended solids and/or phosphorus by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.006238 and then the concentrations measured in milligrams per liter of the Phosphorus, COD, BOD and/or suspended solids respectively in the user's sewage and (b) the allowed concentrations set for above. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate surcharges set out hereafter.

Rates of Surcharge

The monthly rate of surcharge for each of the aforementioned constituents shall be as follows:

a)	For biochemical oxygen demand or chemical oxygen demand	$ 16.8 cents per lb
b)	For suspended solids	$ 16.8 cents per lb
c)	For phosphorus removal in excess of 10 ppm	$ 159.3 cents per lb

7) Waste Evaluation Charges

All users discharging wastes into the system requiring continuing surveillance, sampling and analysis shall be subject to a quarterly fixed charge to cover the costs of such services in the amount of $135.00 per discharge point. The analytical fees shall be as established by the Board.

8) Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by the applicable sections of the Marion Municipal Code, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 2044(1), Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35.928-1, 35.928.2 and 35.935.13.

SECTION II

That all other provisions of General Ordinance No. 36-1991 and to all other related General Ordinances not expressly inconsistent herewith, shall remain and be in full force and effect. The rates and charges prescribed in General Ordinance No. 36-1991, shall remain in effect until the rates and charges herein provided shall become effective.

SECTION III

That the above and foregoing rates and charges shall become effective on the first day of the first month following passage, approval and proper promulgation hereof, and remain in effect until changes are provided by law.

SECTION IV

That the Utility Service Board shall quarterly report to the Common Council its capital expenditures.

SECTION V

That on June 1st and December 1st of each year commencing with June 1, 1992, the sewage works owned and operated by the City shall pay to the General Fund of the City, a sum of $55,000.00 as a contribution in lieu of taxes and the foregoing funds so required to be paid shall be, and are hereby appropriated and shall immediately upon receipt thereof to be paid out of the City's General Fund for hydrant rental due and owing the water utility

owned and operated by the City. ~~The fee for hydrant rental shall be agreed upon as ($) per annum.~~

SCHEDULE VI

This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 2 day of Feb., 1993.

Bruce Conyea
Presiding Officer

Attest:
Kathleen Kiley
City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 3 day of Feb., 1993.

Kathleen Kiley
City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 3 day of February, 1993.

Mayor, City of Marion, Indiana

General Ord. #36-1991

AMENDED 36-1991
GENERAL ORDINANCE NO. ~~15-1984~~

AN ORDINANCE AMENDING GENERAL ORDINANCE NO. 15-1984 FIXING A NEW SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM USERS AND OWNERS OR PROPERTY SERVED BY THE WASTEWATER UTILITY OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH AND AMENDING PRIOR ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, The City of Marion, Indiana has heretofore constructed and has in operation a sewer system and treatment plant for the purpose of collecting and treating sewage wastewater and conveying the same away from the premises where produced; and,

WHEREAS, The City of Marion, Indiana has completed a study to expand and improve its sewer system and treatment plant; and,

WHEREAS, The City of Marion has conducted a financial study and determined that the existing sewage rates and charges are not sufficient for the costs of operation, maintenance, capital improvements, debt service and to make payments to the Civil City in lieu of property taxes; and,

WHEREAS, Indiana Code 36-9-23-25 and the Acts amendatory and supplemental thereto, requires that the rates and charges to be collected for the use of and the service rendered by such sewage wastewater works be collected for the use of and the service rendered by such sewage wastewater works be fixed by Ordinance, finally adopted after due notice and public hearing,

WHEREAS, the report of HNTB Engineers has been tendered to the Utility Service Board setting forth certain extensions and improvements needed to improve service provided by the sewage works to patrons of the system,

NOW THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That General Ordinance No. 15-1984 be amended to set the schedule of rates and charges to be collected by the City of Marion, Indiana, from the owners and property and users served by the wastewater utility of said City, to read as follows: Section 1. For the use of and the service rendered by said wastewater utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewage system or otherwise discharges sanitary sewage, idustrial wastes, water or other liquids either directly or indirectly the sanitary sewage system of the City of Marion, Indiana, by or through any part of the sewage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The sewage rates and charges shall be based on the quantity of water used on or in the water meter there in use, except as herein otherwise provided. That the following rates and charges be, and the same are hereby established for the use of and the service rendered by said wastewater utility of the City of Marion, Indiana, based on the amount of water used during each billing period on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

(b) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule selects the amount of water used each billing period:

MARION SEWAGE WORKS
Marion, Indiana

Schedule of Present and Proposed Rates

	Present Rates	Proposed Rates (26% Increase)
1) Monthly Volume Charges - per 100 cubic feet		
Domestic Users:		
Treatment	$ .445	$ .561
Conveyance	.100	.126
Capital	.455	.573
Total	$ 1.000	$ 1.260
Manufacturing:		
Treatment	$ .445	$ .561
Conveyance	.100	.126
Capital	.352	.443
Total	$ .897	$ 1.130
2) Billing Charge - per bill (not applicable to minimum bills)	$ 1.660	$ 2.092

3) Minimum User Charges

Meter Size	Present Per Month	Present Per Quarter	Proposed Per Month	Proposed Per Quarter
5/8 inch	$ 4.50	$ 13.50	$ 5.67	$ 17.00
3/4 inch	6.50	19.45	8.19	24.57
1 inch	11.70	35.10	14.74	44.22
1 1/2 inch	26.15	78.45	32.95	98.85
2 inch	46.30	138.90	58.34	175.02
3 inch	104.30	312.85	131.42	394.26
4 inch	185.40	556.25	233.60	700.80
6 inch	417.30	1,251.85	525.80	1,577.40
8 inch	741.80	2,225.45	934.67	2,804.01

Unmetered User Flat Charges - per month

Domestic Users: Single family dwelling unit	$ 12.00	$ 15.12
Manufacturing User		To be estimated by Utility

Estimates of monthly flat charges for multi-family residences shall be based on the number of family units accomodated by the system multiplied by the single family residence monthly charge. Estimates of monthly flat charges for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes used and other pertinent sewer use indicators or based upon outfall measurements where available.

5) Regional Contract Charges

In the event the City consummates a contract to service as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for appropriate, lawful unit charges. The charge with respect to the current agreement with the Town of Sweetser, Indiana is as follows:

MARION SEWAGE WORKS
Marion, Indiana

Schedule of Present and Proposed Rates

	Present Rates	Proposed Rates (26% Increase)
Regional Contract Charges - per 100 cubic feet		
Treatment	$ .445	$ .561
Conveyance	.044	.055
Capital	.179	.226
Total	$ .668	$ .842
In addition to the above volume charges, each contract customer shall pay the following charges:		
Monthly Billing Charge	$ 1.58	$ 2.00
Quarterly Surveillance Charge	$125.00	$157.50

Excessive Strength Surcharge - per pound

B.O.D. (in excess of 200 mg/1)	$ .133	$ .168
S.S. (in excess of 250 mg/1)	$ .133	$ .168
Phosphorus (in excess of 10 p.p.m.)	$ 1.264	$ 1.593

a) Biochemical exygen demand of 200 milligrams per liter.

b) Suspended solids content of 250 milligrams per liter.

Computation of Surcharge

The surcharge shall be determined as follows:

a) The excess of pounds of BOD and/or suspended solids by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.006239 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter of the BOD and/or suspended solids respectively in the user's sewage and (b) the allowed concentrations set for above. The surcharge for each constitutent will then be determined by the multiplying the excess pounds of each constituent by the appropriate rate surcharge set out hereafter.

b) For phosphorus in concentrations of more than 10 parts per million.

Rates of Surcharge

The monthly rate of surcharge for each of the aforementioned constitutents shall be as follows:

a) For biochemical oxygen demand - 16.8 cents per pound

b) For suspended solids - 16.8 cents per pound

c) For phosphorus removal in excess of 10 ppm - 159.3 cents per pound

7) Waste Evaluation Charges

All users discharging wastes into the system requiring continuing rveillance, sampling and waste evaluation shall be subject to a quarterly fixed charge to cover the costs of such services in the amount of $ 157.50 per discharge point.

Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by the applicable sections of the Marion Municipal Code, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204B (1), Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35.928-1 and 35.928.2, and 35.935.13.

SECTION II

That all other provisions of General Ordinance No. 15-1984 and to all other related General Ordinances not expressly inconsistent herewith, shall remain and be in ful force and effect. The rates and charges prescribed in General Ordinance No. 15-1984, shall remain in effect until the rates and charges herein provided shall become effective.

SECTION III

That the above and foregoing rates and charges shall become effective on the first day of the first month following passage, approval and proper promulgation hereof, and remain in effect until changes as provided by law.

SECTION IV

That the Utility Service Board shall quarterly report to the
n Council its capital expenditures.

SECTION V

hat on June 1st and December 1st of each year commencing with
1, 1992, the sewage works owned and operated by the City shall
o the General Fund of the City, a sum of money as a contribution
eu of taxes and the foregoing funds so required to be paid shall
nd are hereby appropriated and shall immediately upon receipt
of to be paid out of the City's General Fund for hydrant rental
nd owing the water utility owned and operated by the City. Said
f money shall be fixed and agreed upon as One-hundred Ten
and Dollars ($110,000.00).

SECTION VI

is Ordinance shall be in full force and effect from and after
ssage and signing by the Mayor and publication as required by

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 17th day of December, 1991.

Paul A. Thomasson Jr.
Presiding Officer

Attest:

Mary Jane Holloway
City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana this 18th day of December, 1991.

Mary Jane Holloway
CITY CLERK

APPROVED by me as Mayor of the City of Marion, Indiana, this 18 day of Dec, 1991.

Robert M. Isbell
MAYOR, CITY OF MARION, INDIANA

General Ordinance #15-1984

GENERAL ORDINANCE NO. 15-1984

AN ORDINANCE AMENDING GENERAL ORDINANCE NO. 19-1981 FIXING A NEW SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM USERS AND OWNERS OF PROPERTY SERVED BY THE WASTEWATER UTILITY OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH AND AMENDING PRIOR ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, The City of Marion, Indiana has heretofore constructed and has in operation a sewer system and treatment plant for the purpose of collecting and treating sewage wastewater and conveying the same away from the premises where produced; and,

WHEREAS, The City of Marion, Indiana has completed the project to expand and improve its sewer system and treatment plant; and,

WHEREAS, The City of Marion has conducted a financial study and determined that the existing sewage rates and charges are not sufficient for the costs of operation, maintenance, capital improvements, debt service and to make payments to the Civil City in lieu of property taxes; and,

WHEREAS, Indiana Code 36-9-23-25 and the Acts amendatory and supplemental thereto, requires that the rates and charges to be collected for the use of and the service rendered by such sewage wastewater works be collected for the use of and the service rendered by such sewage wastewater works be fixed by Ordinance, finally adopted after due notice and public hearing:

NOW, THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That General Ordinance No. 19-1981 be amended to set the schedule of rates and charges to be collected by the City of Marion, Indiana, from the owners of property and users served by the wastewater utility of said City, to read as follows: Section 1. For the use of and the service rendered by said wastewater utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewerage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewerage system of the City of Marion, Indiana, by or through any part of the sewerage system of the City

of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates, as the same is measured by the water meter there in use, except as herein otherwise provided. That the following rates and charges be, and the same are hereby established for the use of and the service rendered by said wastewater utility of the City of Marion, Indiana, based on the amount of water used during each billing period on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

(b) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used during each billing period:

	Domestic	Manufacturing
1. Volume Charges (cents per 100 cu. ft.)		
Treatment	44.5	44.5
Conveyance	10.0	10.0
Capital	45.5	35.2
	100.0	89.7
2. Billing Charge (cents per bill) (not applicable to minimum bills)	1.66	1.66

3. Minimum User Charges	Monthly	Quarterly
Meter Size		
5/8 Inch	$ 4.50	$ 13.50
3/4 Inch	6.50	19.45
1 Inch	11.70	35.10
1½ Inch	26.15	78.45
2 Inch	46.30	138.90
3 Inch	104.30	312.85
4 Inch	185.40	556.25
6 Inch	417.30	1,251.85
8 Inch	741.80	2,225.45

4. User Flat Charges

In the event any user is not a metered water customer, there shall be imposed flat charge rates as follows:

		Charge Per Month
Domestic User	-Single family residence	$12.00
	-Multi-family residence	To be estimated by Utility
Manufacturing User		To be estimated by Utility

Estimates of monthly flat charges for multi-family residences shall be based on the number of family units accommodated by the system multiplied by the single family residence monthly charge.

Estimates of monthly flat charges for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes used and other pertinent sewer use indicators or based upon outfall measurements where available.

5. Regional Contract Charges

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for appropriate, lawful unit charges. The charge with respect to the current agreement with the Town of Sweetser, Indiana is as follows:

Volume Charge (cents per 100 cu. ft.)

Treatment	44.5
Conveyance	4.4
Capital	17.9
	66.8

Flat Charge

In addition to the foregoing charges based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of $1.66 and a quarterly surveillance charge of $125.00.

6. Strength-of-Wastes Surcharge

Liability for Surcharge

Each user discharging wastes into the sewerage system shall be subject to a strength of wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greated than as follows:

a. Biochemical oxygen demand of 200 milligrams per liter.

b. Suspended solids content of 250 milligrams per liter.

Computation of Surcharge

The surcharge shall be determined as follows:

a. The excess pounds of BOD and/or suspended solids by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.006239 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter of the BOD and/or suspended solids respectively in the user's sewage and (b) the allowed concentrations set forth above. The surcharge for each constitutent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate surcharge set out hereafter.

b. For phosphorus in concentrations of more than 10 parts per million.

Rates of Surcharge

The monthly rate of surcharge for each of the aforementioned constituents shall be as follows:

a. For biochemical oxygen demand	-	13.3 cents per pound
b. For suspended solids	-	13.3 cents per pound
c. For phosphorus removal in excess of 10 ppm	-	126.4 cents per pound

7. Waste Evaluation Charges

All users discharging wastes into the system requiring continuing surveillance, sampling and waste evaluation shall be subject to a quarterly fixed charge to cover the costs of such services in the amount of $124.82 per discharge point.

8. Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by the applicable sections of the Marion Municipal Code, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a Sewer Use Ordinance and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204B (1), Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35.928-1 and 35.928-2, and 35.935.13.

SECTION II

That all other provisions of General Ordinance No. 19-1981 and all other related General Ordinances not expressly inconsistent herewith, shall remain and be in full force and effect. The rates and charges prescribed in General Ordinance No. 19-1981, shall remain in effect until the rates and charges herein provided shall become effective.

SECTION III

That the above and foregoing rates and charges shall become effective on the first day of the first month following passage, approval and proper promulgation hereof, and remain in effect until changes as provided by law.

SECTION IV

That on June 1st. and December 1st. of each year commencing with June 1, 1985, the sewage works owned and operated by the City shall pay to the General Fund of the City, the sum of $55,000 as a contribution in lieu of taxes and the foregoing funds so required to be paid shall be, and are hereby appropriated and shall immediately upon receipt thereof be paid out of the City's General Fund for hydrant rental due and owing the water utility owned and operated by the City.

SECTION V

This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 17 day of July, 1984.

Ralph E. Cook
PRESIDING OFFICER

ATTEST:

Mary Jane Hollaway
CITY CLERK

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 18th day of July, 1984.

Mary Jane Hollaway
CITY CLERK

APPROVED by me as Mayor of the City of Marion, Indiana, this 18 day of July, 1984.

Leon Moore
MAYOR, CITY OF MARION, INDIANA

General Ordinance No. 19-1981
As Amended

GENERAL ORDINANCE NO. 19 - 1981

AN ORDINANCE FIXING A NEW SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM USERS AND OWNERS OF PROPERTY SERVED BY THE WASTEWATER UTILITY OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH AND AMENDING PRIOR ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, The City of Marion, Indiana has heretofore constructed and has in operation a sewer system and treatment plant for the purpose of collecting and treating sewage wastewater and conveying the same away from the premises where produced; and,

WHEREAS, The City of Marion, Indiana has undertaken a project to expand and improve its sewer system and treatment plant; and,

WHEREAS, Indiana Code 19-2-5 and the Acts amendatory and supplemental thereto, requires that the rates and charges to be collected for the use of and the service rendered by such sewage wastewater works be collected for the use of and the service rendered by such sewage wastewater works be fixed by Ordinance, finally adopted after due notice and public hearing:

NOW, THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That General Ordinance No. 7-1981 be amended to set the schedule of rates and charges to be collected by the City of Marion, Indiana, from the owners of property and users served by the wastewater utility of said City, to read as follows: Section 1. For the use of and the service rendered by said wastewater utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewerage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewerage system of the City of

Marion, Indiana, by or through any part of the sewerage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates, as the same is measured by the water meter there in use, except as herein otherwise provided. That the following rates and charges be, and the same are hereby established for the use of and the service rendered by said wastewater utility of the City of Marion, Indiana, based on the amount of water used during each billing period on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

(b) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used during each billing period:

		Domestic	Manufacturing
1.	Volume Charges (cents per 100 cu. ft.)		
	Treatment	28.2	28.2
	Conveyance	6.3	6.3
	Capital	28.8	22.3
		63.3	56.8
2.	Billing Charge (cents per bill) (not applicable to minimum bills)	105.0	105.0

3. Minimum User Charges		Monthly	Quarterly
Meter Size			
5/8	Inch	$ 2.85	$ ~~11.40~~ 8.55
3/4	Inch	4.10	~~16.40~~ 12.30
1	Inch	7.40	~~29.60~~ 22.20
1 1/2	Inch	16.55	~~66.20~~ 49.65
2	Inch	29.30	~~117.20~~ 87.90
3	Inch	66.00	~~264.00~~ 198.00
4	Inch	117.35	~~469.40~~ 352.05
6	Inch	264.10	~~1,056.40~~ 792.30
8	Inch	469.50	~~1,878.00~~ 1408.50

4. User Flat Charges

In the event any user is not a metered water customer, there shall be imposed flat charge rates as follows:

	Charge Per Month
Domestic User - Single family residence	$ 7.60
- Multi-family residence	To be estimated by Utility
Manufacturing User	To be estimated by Utility

Estimates of monthly flat charges for multi-family residences shall be based on the number of family units accommodated by the system multiplied by the single family residence monthly charge.

Estimates of monthly flat charges for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes used and other pertinent sewer use indicators or based upon outfall measurements where available.

5. Regional Contract Charges

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for appropriate, lawful unit charges. The charge with respect to the current agreement with the Town of Sweetser, Indiana is as follows:

Volume Charge (cents per 100 cu. ft.)

Treatment	28.2
Conveyance	2.8
Capital	11.3
	42.3

Flat Charge

In addition to the foregoing charges based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of $1.00 and a quarterly surveillance charge of $79.00.

6. Strength-of-Wastes Surcharge

Liability for Surcharge

Each user discharging wastes into the sewerage system shall be subject to a strength of wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greated than as follows:

a. Biochemical oxygen demand of 200 milligrams per liter.

b. Suspended solids content of 250 milligrams per liter.

Computation of Surcharge

The surcharge shall be determined as follows:

a. The excess pounds of BOD and/or suspended solids by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.006239 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter of the BOD and/or suspended solids respectively in the user's sewage and (b) the allowed concentrations set forth above. The surcharge for each constitutent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate surcharge set out hereafter.

b. For phosphorus in concentrations of more than 10 parts per millium.

Rates of Surcharge

The monthly rate of surcharge for each of the aforementioned constituents shall be as follows:

a. For biochemical oxygen demand - 8.4 cents per pound

b. For suspended solids - 8.4 cents per pound

c. For phosphorus removal in excess of 10 ppm -80.0 cents per pound

7. Waste Evaluation Charges

All users discharging wastes into the system requiring continuing surveillance, sampling and waste evaluation shall be subject to a quarterly fixed charge to cover the costs of such services in the amount of $79.00 per discharge point.

8. Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed

by the applicable sections of the Marion Municipal Code, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a Sewer Use Ordinance, Industrial Cost Recovery System and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204B(1), Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35.928-1 and 35.928-2, and 35.935.13.

SECTION II

That all other provisions of General Ordinance No. 7-1981, General Ordinance No. 25-1972, General Ordinance No. 78-1, General Ordinance No. 25-1968, and General Ordinance No. 9-19 not expressly inconsistent herewith, shall remain and be in full force and effect. The rates and charges prescribed in General Ordinance No. 25-1972, shall remain in effect until the rates and charges herein provided shall become effective.

SECTION III

That the above and foregoing rates and charges shall become effective on the first day of the first month following passage, approval and proper promulgation hereof, and remain in effect until changes as provided by law.

SECTION IV

This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 21st day of July, 1981.

PRESIDING OFFICER

ATTEST:

Mary Jane Kellaway
CITY CLERK

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 22nd day of July, 1981.

Mary Jane Kellaway
CITY CLERK

APPROVED by me as Mayor of the City of Marion, Indiana, this 30th day of July, 1981.

MAYOR, CITY OF MARION, INDIANA

NEWS-HERALD

NOTICE OF HEARING ON PROPOSED
SEWAGE RATES

Property owners and other interested parties of the City of Marion, Indiana are hereby notified that General Ordinance 7-1981, providing for an increase in the rates and charges to be rendered by the sewage works was introduced at a meeting of the Common Council of the City of Marion, Indiana,



held on April 7th, 1981. At a Special Meeting of the Common Council of the City of Marion, Indiana, to be held at 7:00 P.M. on May 12th, 1981 in the Council Chambers, Marion Municipal Building, there will be a public hearing on rates and charges and consideration of the adoption of General Ordinance 7-1981, which is in the following words and figures:

GENERAL ORDINANCE 7-1981

AN ORDINANCE FIXING A NEW SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM USERS AND OWNERS OF PROPERTY SERVED BY THE WASTEWATER UTILITY OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH AND AMENDING PRIOR ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the City of Marion, Indiana has heretofore constructed and has in operation a sewer system and treatment plant for the purpose of collecting and treating sewage wastewater and conveying the same away from the premises where produced; and,

WHEREAS, the City of Marion, Indiana has undertaken a project to expand and improve its sewer system and treatment plant; and,

WHEREAS, Indiana Code 19-2-5 and the Acts amendatory and supplemental thereto, requires that the rates and charges to be collected for the use of and the service rendered by such sewage wastewater works be collected for the use of and the service rendered by such sewage wastewater works be fixed by Ordinance, finally adopted after due notice and public hearing:

NOW THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That Section I of General Ordinance No. 25-1972 be amended to set the schedule of rates and charges to be collected by the City of Marion, Indiana, from the owners of property and users

served by the wastewater utility of said City, to read as follows:

Section 1. For the use of and the service rendered by said wastewater utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewerage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewerage system of the City of Marion, Indiana, by or through any part of the sewerage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates, as the same is measured by the water meter there in use, except as herein otherwise provided. That the following rates and charges be, and the same are hereby established for the use of and the service rendered by said wastewater utility of the City of Marion, Indiana, based on the amount of water used during each billing period on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

(b) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used during each billing period:

	Domestic	Manufacturing
1. Volume Charges (cents per 100 cu. ft.)		
Treatment	28.2	28.2
Conveyance	6.3	6.3
Capital	25.6	19.4
	60.1	53.9
2. Billing Charge (cents per bill) (not applicable to minimum bills)	100.0	100.0

3. Minimum User Charges

Meter Size	Monthly	Quarterly
5/8 Inch	$ 2.70	$ 10.80
3/4 Inch	3.90	15.60
1 Inch	7.00	28.00
1 1/2 Inch	15.70	62.80
2 Inch	27.80	111.20
3 Inch	62.60	250.40
4 Inch	111.35	445.40
6 Inch	250.55	1,002.20
8 Inch	445.45	1,781.80

4. User Flat Charges

In the event any user is not a metered water customer, there shall be imposed flat charge rates as follows:

	Charge Per Month
Domestic User - Single family residence	$ 7.20
- Multi-family residence	To be estimated by Utility
Manufacturing User	To be estimated by Utility

Estimates of monthly flat charges for multi-family residences shall be based on the number of family units accommodated by the system multiplied by the single family residence monthly charge.

Estimates of monthly flat charges for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes used and other pertinent sewer use indicators or based upon outfall measurements where available.

5. Regional Contract Charges

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for appropriate, lawful unit charges. The charge with respect to the current agreement with the Town of Sweetser, Indiana is as follows:

Volume Charge (cents per 100 cu. ft.)

Treatment	28.2
Conveyance	2.8
Capital	10.7
	41.7

Flat Charge

In addition to the foregoing charges based on volume of sewage treated and conveyed, each contract customer will pay a monthly billing charge of $1.00 and a quarterly surveillance charge of $75.00.

6. Strength-of-Wastes Surcharge

Liability for Surcharge

Each user discharging wastes into the sewerage system shall be subject to a strength of wastes surcharge, in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than as follows:

a. Biochemical oxygen demand of 200 milligrams per liter.

b. Suspended solids content of 250 milligrams per liter.

Computation of Surcharge

The surcharge shall be determined as follows:

a. The excess pounds of BOD and/or suspended solids by first multiplying the user's billing sewage volume measured in units of 100 cubic feet for the current billing period by the factor 0.006238 and then multiplying this product by the difference between (a) the concentrations measured in milligrams per liter of the BOD and/or suspended solids respectively in the user's sewage and (b) the allowed concentrations set forth above. The surcharge for each constitutent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge set out hereafter.

c. For Phosphorus in Concentrations of more than 10 parts per million

Rates of Surcharge

The monthly rate of surcharge for each of the aforementioned constituents shall be as follows:

a. For biochemical oxygen demand - 8.0 cents per pound

b. For suspended solids - 8.0 cents per pound

c. For Phosphorus Removal in Excess of 10PPM - 76.0 Cents Per Pound

7. Waste Evaluation Charges

All users discharging wastes into the system requiring continuing surveillance, sampling and waste evaluation shall be subject to a quarterly fixed charge to cover the costs of such services in the amount of $75.00 per discharge point.

3. Other Provisions

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by the applicable sections of the Marion Municipal Code, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a Sewer Use Ordinance, Industrial Cost Recovery System and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204B(1), Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35.928-1 and 35.928-2, and 35.935.13.

SECTION II

That all other provisions of General Ordinance No. 25-1972, General Ordinance 78-1, General Ordinance 25-1968, and General Ordinance No. 9-194 not expressly inconsistent herewith, shall remain and be in full force and effect. The rates and charges prescribed in General Ordinance 25-1972, shall remain in effect until the rates and charges herein provided shall become effective.

SECTION III

That the above and foregoing rates and charges shall become effective on the first day of the first month following passage, approval and proper promulgation hereof, and remain in effect until changed as provided by law.

SECTION IV

This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor and publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this_____ day of April, 1981.

_____
Presiding Officer

ATTEST:

_____
City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this_____ day of April, 1981.

_____
City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this_____ day of April, 1981.

_____
Mayor, City of Marion, Indiana

All property owners and other interested parties of the City of Marion, Indiana are invited to attend and be heard at said public hearing.

_____
DAVID J. HYMAN, PRESIDING OFFICER,
COMMON COUNCIL OF THE CITY OF MARION,
INDIANA

ATTEST:

BY_____
MARY JANE HOLLOWAY, CITY CLERK
OF THE CITY OF MARION, INDIANA

4/24 + 5/1 - PUBLISH BOTH TIMES AS LEGAL NOTICE

GENERAL ORDINANCE NO. 25 - 1972

AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 25-1968, ENTITLED "AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 9-1940, ENTITLED AN ORDINANCE ESTABLISHING A NEW SCHEDULE OF RATES AND CHARGES FOR THE USE OF AND SERVICE RENDERED BY THE SANITATION DEPARTMENT OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH", AND FIXING THE SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM THE OWNERS OF PROPERTY SERVED BY THE SEWAGE DISPOSAL WORKS OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH.

WHEREAS, the City of Marion, Indiana, has heretofore constructed and has in operation a sewer system and disposal plant for the purpose of collecting and treating sewage and conveying the same away from the premises where produced; and

WHEREAS, Chapter 284, of the Acts of Indiana, 1967, and the Acts amendatory and supplemental thereto, requires that the rates and charges to be collected for the use of and the service rendered by such sewage works be collected for the use of and the service rendered by such sewage works be fixed by Ordinance, finally adopted after due notice and public hearing:

NOW THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That Section I of General Ordinance No. 25-1968 entitled "An Ordinance to amend General Ordinance No. 9-1940 entitled an Ordinance establishing a new schedule of rates and charges for the use of and service rendered by the Sanitation Department of the City of Marion, Indiana, and repealing all ordinances and parts of ordinances in conflict herewith" be amended to set the schedule of rates and charges to be collected by the City of Marion, Indiana, from the owners of property and users served by the sewage disposal works of said City, to read as follows:

Section 1. For the use of and the service rendered by said sewage disposal works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewerage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewerage system of the City of Marion, Indiana, by or through any part of the sewerage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates, as the same is measured by the water meter there in use, except as herein otherwise provided. That the following rates and charges be, and the same are hereby established for the use of and the service rendered by said sewage disposal works of the City of Marion, Indiana, within the corporate limits of the City based on the amount of water used during each billing period on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

(b) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used during each billing period:

SECTION II

That Paragraph (f), Section II, of General Ordinance No. 25-1968, shall be amended to read as follows:

Section 2, Paragraph (f). In the event two or more dwelling units such as trailers, apartments or housekeeping rooms discharging sanitary sewage, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, are users of water and quantity of water is measured by a single water meter, then in such case billing shall be for a single service in the matter set out elsewhere herein, except that an additional charge shall be added thereto in the amount of the minimum charge for a 5/8" water meter size for each dwelling unit over one (1) served through the single water meter. In the case of trailer parks, the number of dwelling units shall be computed and interpreted as a room or rooms or other living space or spaces in which cooking facilities are provided.

SECTION III

That Section Three of General Ordinance No. 25-1968 shall be amended to read as follows:

Section 3. In order that the rates and charges may be justly and equitably adjusted to the service rendered, the City shall base its charges not only on volume, but also on the strength and character of the sewage and waste which it is required to treat and dispose of. Extra charges based on the strength and content of all sewage and waste discharged, either directly or indirectly, into the City's sanitary sewerage system, shall be established by the City in such bylaws and regulations as may be deemed necessary as hereinafter provided. The City is authorized to prohibit the dumping of wastes into the City's sewerage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the City, or to require methods of pretreatment of said wastes to reduce the characteristics of the waste satisfactory to the City.

SECTION IV

That all other provisions of General Ordinance No. 25-1968, and General Ordinance No. 9-1940, not expressly inconsistent herewith, shall remain and be in full force and effect. The rates and charges prescribed in General Ordinance 25-1968, shall remain in effect until the rates and charges herein provided shall become effective.

SECTION V

That the above and foregoing rates and charges shall become effective on the first day of the first month following passage and approval hereof, and remain in effect until changed as provided by law.

SECTION VI

This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

SCHEDULE OF SEWAGE RATES AND CHARGES

Cubic Feet of Water Used:

	Per Quarter	Per Month	Rate Per 100 Cubic Feet
First	900	300	$ .56 2/3
Next	5,100	1,700	.45
Next	24,000	8,000	.36
Next	70,000	23,300	.28
Next	900,000	300,000	.22
Over	1,000,000	333,300	.16

The above rates and charges are in addition to water rates and charges.

(c) The minimum charge for any service where the user is a metered water consumer shall be based on the size of such water meter and shall be as follows:

MINIMUM CHARGES

Water Meter Size	Minimum Per Quarter	Month
5/8"	$ 5.10	$ 1.70
3/4"	10.00	3.33
1"	16.00	5.33
1 1/2"	23.00	7.67
2"	40.00	13.33
3"	80.00	26.67
4"	160.00	53.33
6"	270.00	90.00

The above rates may be applied either quarterly or monthly at the option of the City of Marion. Also, the City has the right to bill monthly based upon quarterly meter readings. In such an event, two monthly estimated bills will be rendered with a final monthly bill for the quarter based upon quarterly meter reading and credit for prior monthly estimated payments.

A flat rate quarterly charge of $9.00 (monthly $3.00) shall be charged domestic users who do not have a metered municipal supply of water.

(c) The City shall have the right to establish a connection charge which shall in no event be less than the cost of time and materials used for any connection made to the City's sanitary sewerage system.

(d) All accounts for sewage disposal service not paid within fifteen days from the due date thereof as stated in such bills, will be subject to a collection or deferred payment charge of ten (10%) per cent of the gross bill, and delinquent bills shall be collected and enforced in the manner provided by law. In the event that said sewage disposal service bill is not paid for at least thirty days after the same shall have been due and unpaid, and after the City Water Works shall give written notice to said water consumer or the owner of the property of its intention to discontinue such water service if such unpaid sewage disposal service fees or bill are not paid on or before the date specified in such notice, said water service may be discontinued. Such written notice shall be given by regular mail posted not less than 10 days prior to the date upon which water service shall be discontinued and shall be addressed to such water consumer or such property owner at his last known address.

Passed and adopted by the Common Council of the City of Marion, Indiana, this ____ day of _____, 1972.

_____
Presiding Officer

ATTEST:

_____
Clerk, City of Marion

Presented by me to the Mayor of the City of Marion, Indiana, this ____ day of _____, 1972.

_____
Clerk, City of Marion

This Ordinance approved and signed by me as Mayor, City of Marion, this ____ day of _____, 1972.

_____
Mayor, City of Marion, Indiana

GENERAL ORDINANCE NO. 25 -1968
AS AMENDED.

AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 9-1940, ENTITLED:

" SEWER CHARGES "

BE IT ORDAINED BY THE COMMON COUNCIL of the City of Marion, Indiana:

Section 1. For the use of and the services rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the City's sanitary sewerage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewerage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) Except as herein otherwise provided, sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rate and charges, as the same is measured by the water meter there in use.

(b) The water usage schedule on which the amount of said sewage rates and charges shall be determined shall be as follows:

Inside Corporate Limits Quantity of Water Used per Quarter		Charge per 100 Cu. Ft.
First	1,800 cu.ft.	$0.47
Next	4,200 cu.ft.	.24
Next	4,000 cu.ft.	.22
Next	20,000 cu.ft.	.18
Next	30,000 cu.ft.	.14
Next	40,000 cu.ft.	.09
Next	900,000 cu.ft.	.074
Over	1,000,000 cu.ft.	.061

Inside Corporate Limits Quantity of Water Used per Month		
First	600 cu.ft.	$0.47
Next	1,400 cu.ft.	.24
Next	1,333 cu.ft.	.22
Next	6,667 cu.ft.	.18
Next	10,000 cu.ft.	.14
Next	13,333 cu.ft.	.09
Next	300,000 cu.ft.	.074
Over	333,333 cu.ft.	.061

The minimum charge for any user, where the user is a metered water consumer, shall be based on meter sizes as follows:

Minimum Charge	Inside Corporate Limits	
	Month	Quarter
5/8 inch meter	$1.41	$4.23
3/4 inch meter	2.93	8.79
1 inch meter	4.50	13.50
1½ inch meter	6.30	18.90
2 inch meter	11.25	33.75
3 inch meter	22.50	67.50
4 inch meter	45.00	135.00
6 inch meter	74.25	222.75

The minimum charge for sewage services where the user is not a metered water customer shall be based on the size of the sewage service connection, but in no event shall such charge be less than the corresponding minimum monthly or quarterly water meter charge as hereinbefore set forth.

(c) The City shall have the right to establish a connection charge which shall in no event be less than the cost of time and materials used for any connection made to the City's sanitary sewerage system.

Sec. 2.

(a) The quantity of water obtained from sources other than the municipal waterworks and discharged into the public sanitary sewerage system may be determined by the City in such manner as the City shall elect, and the sewage treatment service may be billed at the above appropriate rates.

(b) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, is not a user of the water supplied by the City's waterworks and the water used thereon or therein is not measured by a meter, or is measured by a meter not acceptable to the City, then the amount of water used shall be othersied measured or determined by the City in order to ascertain the rates of charge, or the owner, or other interested party, at his expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of the sewage discharge.

(c) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, is a user or water supplied by the City's waterworks, and in addition uses water from another source which is not measured by a water meter, or is measured by a water meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City in order to ascertain the rates of charge, or the owner or other interested party, at his expense, may install and maintain meters,weirs,volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.

(d) In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids into the City's sanitary sewerage sytem, either directly or indirectly and uses water in excess of 12,000 cu.ft. per quarter, and it can be shown to the satisfaction of the City that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewerage system, then the owner or other interested party shall install and maintain meters,weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.

(e) In the event two or more residential lots, parcels or real estate or buildings discharging sanitary sewage, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels of real estate or buildings served through the single water meter.

(f) In the event two or more dwelling units such as trailers,apartments or housekeeping rooms discharging sanitary sewage, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, are users of water and quantity of water is measured by a single water meter, then in such case billing shall be for a single service in the matter set out elsewhere herein, except that an additional charge shall be added thereto in the amount of One Dollar and Forty Cents ($1.40) per month or Four Dollars and Twenty ($4.20) per quarter for each dwelling unit over one (1) served through the single water meter. In the case of trailer parks, the number of dwelling units shall be computed and interpreted as a room or rooms or other living space or spaces in which cooking facilities are provided.

(g) All of the above charges shall apply to services rendered within the corporate limits of the City. For services rendered outside the corporate limits of the City, the foregoing rates and charges shall be increased by fifty (50%) percent.

(h) Where a metered water supply is used for fire protection as well as for other uses, the City may, in its discretion, make adjustments in the minimum charge and in the use charge as may be equitable.

(i) For the service rendered to the City of Marion, The City shall be subject to the same rates and charges hereinabove provided or to rates and charges established in harmony therewith.

Sec. 3. In order that the rates and charges may be justly and equitably adjusted to the service rendered, the City shall have the right to base its charges not only on volume, but also on the strength and character of the sewage and waste which it is required to treat and dispose of. Extra charges based on the strength and content of all sewage and waste discharged, either directly or indirectly, into the City's sanitary sewerage system, shall be established by the City in such bylaws and regulations as may be deemed necessary as hereinafter provided. The City is authorized to prohibit the dumping of wastes into the City's sewerage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the City, or to require methods of pretreatment of said wastes to reduce the characteristics of the waste satisfactory to the City.

Sec. 4. The terms "Sanitary sewage" and industrial wastes" shall be defined as follows:

(a) "Sanitary sewage" is defined as the waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household launderies, basement drains, garage floor drains,bars, soda fountains,cuspidors,refrigerator drips,drinking fountains, stable floor drains, and all other water-carried wastes except industrial wastes.

(b) "Industrial wastes" are defined as being the liquid waste or liquid borne waste resulting from any commercial manufacturing or industrial operation or process.

Sec. 5. These rates and charges shall be extended to and cover any additional premises thereafter served, without the necessity of any hearing or notice.

Sec. 6. The rates and charges shall be prepared and billed by the City of Marion, as determined by the bylaws and regulations of the City as hereinafter provided for, and shall be collected in the manner provided by law and ordinance. Said rates and charges will be billed to the tenant or tenants occupying the property served unless otherwise requested in writing by the owners, but such billing shall in nowise relieve the owner from liability in the event payment is not made as herein required. The owners of the property served, which are occupied by tenants shall have the right to examine the collection records of the City for the purpose of determining whether such rates and charges have been paid by such tenants, provided that such examination shall be made in the office in which said records are kept and during the hours that such office is open for business.

Sec. 7. The City shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economic and efficient management of the City's sewage works, including the sewer system and the treatment plant, for the construction and use of house sewers and connections to the sewer system, and for the regulation, collection,rebating and refunding of rates and charges.

Sec. 8. Except as otherwise provided, the rates and charges as herein set forth shall become effective with the first billing for sewage rates and charges being rendered not later than Nov. 1,1968.

Sec. 9. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Sec. 10. This ordinance shall be in full foce and effect from and after its passage and signing by the Mayor.

Passed and adopted by the Common Council of the City of Marion on the 15 day of October, 1968.

Robert L. Roop
Robert L. Roop
Presiding Officer

Attest:

Verna Hays
City Clerk

Presented by me to the Mayor of the City of Marion on the 17 day of October 1968 at the hour of 11:30 M.

Verna Hays
City Clerk

This ordinance approved and signed by me on the 17 day of October 1968 at the hour of 11:30 AM.

Gene Moore
Gene Moore
Mayor

GENERAL ORDINANCE NO. 34-1958

AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 50-1957, ENTITLED "AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 17-1954, ENTITLED AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 9-1940 ENTITLED AN ORDINANCE ESTABLISHING A NEW SCHEDULE OF RATES AND CHARGES FOR THE USE OF AND SERVICE RENDERED BY THE SANITATION DEPARTMENT OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH", AND FIXING THE SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM THE OWNERS OF PROPERTY SERVED BY THE SEWAGE DISPOSAL WORKS OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH.

WHEREAS, the City of Marion, Indiana, has heretofore constructed and has in operation a sewer system and disposal plant for the purpose of collecting and treating sewage and conveying the same away from the premises where produced; and

WHEREAS, Chapter 299, of the Acts of Indiana, 1945, and Chapter 61, of the Acts of Indiana, 1932, and the Acts amendatory and supplemental thereto, requires that the rates and charges to be collected for the use [illegible] and the service rendered by such sewage works be fixed by Ordinance, finally adopted after due notice and public hearing:

NOW THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That Paragraphs (a), (b), (c) and (d) of Section I of General Ordinance No. 50-1957 entitled An Ordinance to amend General Ordinance No. 17-1954, entitled An Ordinance to amend General Ordinance No. 9-1940 entitled an Ordinance establishing a new schedule of rates and charges for the use of and service rendered by the Sanitation Department of the City of Marion, Indiana, and repealing all ordinances and parts of ordinances in conflict herewith" be amended to set the schedule of rates and charges to be collected by the City of Marion, Indiana, from the owners of property and users served by the sewage disposal works of said City, to read as follows:

Section 1. For the use of and the service rendered by said sewage disposal works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewerage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewerage system of the City of Marion, Indiana, by or through any part of the sewerage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a). The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates, as the same is measured by the water meter there in use, except as herein otherwise provided. That the following rates and charges be, and the same are hereby established for the use of and the service rendered by said sewage disposal works of the City of Marion, Indiana, within the corporate limits of the City based on the amount of water used during each quarterly billing period on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

(b) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used during each quarterly

Quantity of Water Used Per Quarter		Rate per 100 cu. ft.
First	1200 cu. ft.	$.25 per 100 cu. ft.
Next	4200 cu. ft.	.18 per 100 cu. ft.
Next	4000 cu. ft.	.16 per 100 cu. ft.
Next	20,000 cu. ft.	.13 per 100 cu. ft.
Next	30,000 cu. ft.	.10 per 100 cu. ft.
Next	40,000 cu. ft.	.07 per 100 cu. ft.
Next	900,000 cu. ft.	.05½ per 100 cu. ft.
All over	1,000,000 cu. ft.	.04½ per 100 cu. ft.

The above rates and charges are in addition to water rates and charges.

(c). The minimum charge for any service where the user is a metered water consumer shall be based on the size of such water meter and shall be as follows:

Size	Quarterly Minimum
5/8" water meter	$ 3.00
3/4" water meter	6.50
1" water meter	10.00
1 1/2" water meter	14.00
2" water meter	25.00
3" water meter	50.00
4" water meter	100.00
6" water meter	165.00

(cc). The minimum charge for any service where the user is not a metered water consumer shall be based on the size of the service connection, but no such charge shall be less than the corresponding minimum meter charge.

(ccc). In the event two or more residential lots, parcels of real estate or buildings discharging sanitary sewage, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, for billing purposes, the quantity of water used shall be averaged for each user and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels of real estate, or buildings served through the single water meter.

(cccc). All of the above charges shall apply to services rendered within the corporate limits of the City. For services rendered outside the corporate limits of the City, the foregoing rates and charges shall be increased by fifty (50%) per cent.

(d) All accounts for sewage disposal service not paid within fifteen days from the due date thereof, as stated in such bills, may be subject to a collection or deferred payment charge of ten (10%) per cent of the gross bill, and delinquent bills shall be collected and enforced in the manner provided by law.

SECTION II.

That all other provisions of General Ordinance No. 50-1957, General Ordinance No. 17-1954 and General Ordinance No. 9-1940, not expressly inconsistent herewith, shall remain and be in full force and effect. The rates and charges prescribed in General Ordinance No. 50-1957, shall remain in effect until the rates and charges herein provided shall become effective.

SECTION III.

That the above and foregoing rates and charges shall become effective on the first day of September, 1958, and remain in effect

SECTION IV.

This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Passed and adopted by the Common Council of the City of Marion, Indiana, this 19th day of August, 1958.

Harold F. Shaw
Presiding Officer

Attest:
Verna Hayes
Clerk, City of Marion

Presented by me to the Mayor of the City of Marion, Indiana, this 20th day of August, 1958.

Verna Hayes
Clerk, City of Marion

This Ordinance approved and signed by me as Mayor, City of Marion, this 21st day of August, 1958.

Mayor, City of Marion, Indiana

GENERAL ORDINANCE NO. 50 1957

AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 17-1954, ENTITLED "AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 9-1940 ENTITLED AN ORDINANCE ESTABLISHING A NEW SCHEDULE OF RATES AND CHARGES FOR THE USE OF AND SERVICE RENDERED BY THE SANITATION DEPARTMENT OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND FIXING THE SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM THE OWNERS OF PROPERTY SERVED BY THE SEWAGE DISPOSAL WORKS OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH".

WHEREAS, the City of Marion, Indiana, has heretofore constructed and has in operation a sewer system and disposal plant for the purpose of collecting and treating sewage and conveying the same away from the premises where produced; and

WHEREAS, Chapter 299, of the Acts of Indiana, 1945, and Chapter 61, of the Acts of Indiana, 1932, and the Acts amendatory and supplemental thereto, requires that the rates and charges to be collected for the use of and the service rendered by such sewage works be fixed by Ordinance, finally adopted after due notice and public hearing:

NOW THEREFORE:

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I

That Paragraphs (a) (b), (c) and (d) of Section I of General Ordinance No. 17-1954, entitled "An Ordinance to amend General Ordinance No. 9-1940 entitled an ordinance establishing a new schedule of rates and charges for the use of and service rendered by the Sanitation Department of the City of Marion, Indiana, and repealing all ordinances and parts of ordinances in conflict herewith" be amended to set the schedule of rates and charges to be collected by the City of Marion, Indiana, from the owners of property and users served by the sewage disposal works of said City; to read as follows:

SECTION I. For the use of and the service rendered by said sewage disposal works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the City's sanitary sewerage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewerage system of the City of Marion, Indiana, by or through any part of the sewerage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a). The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates, as the same is measured by the water meter there in use, except as herein otherwise provided. Water meters will be read once each month (or period equaling one month) and sewage bills shall be rendered once each month (or period equaling one month). At the option of the City, water meters may be read at intervals of once every two or three months and in such event the sewage service billing will be made monthly on the last previous meter reading, prorated on a monthly basis, and adjusted as necessary in the month following each meter reading.

(b). The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used during each quarterly and/or monthly billing period:

Quantity of Water Used Per Quarter	Rate per 100 cu. ft.
First 1800 cu. ft.	$ .50 per 100 cu. ft.
Next 4200 cu. ft.	.21 per 100 cu. ft.
Next 4000 cu. ft.	.105 per 100 cu. ft.

Quantity of Water Used Per Quarter (con'td)	Rate per 100 cu. ft. (con'td)
Next 20,000 cu. ft.	$.14 per 100 cu. ft.
Next 30,000 cu. ft.	.10 per 100 cu. ft.
Next 40,000 cu. ft.	.07 per 100 cu. ft.
Next 900,000 cu. ft.	.055 per 100 cu. ft.
All over 1,000,000 cu. ft.	.04 per 100 cu. ft.

The above rates and charges are in addition to water rates and charges.

(c). The minimum charge for any service where the user is a metered water consumer shall be based on the size of such water meter and shall be as follows:

Size:	Quarterly Minimum (Monthly approx.)
5/8" water meter	$ 9.00 ($3.00 per month)
3/4" water meter	11.00 (3.70 per month)
1" water meter	13.50 (4.50 per month)
1 1/2" water meter	18.00 (6.00 per month)
2" water meter	30.00 (10.00 per month)
3" water meter	54.00 (18.00 per month)
4" water meter	105.00 (35.00 per month)
6" water meter	180.00 (60.00 per month)

(cc). The minimum charge for any service where the user is not a metered water consumer shall be based on the size of the service connection, but no such charge shall be less than the corresponding minimum meter charge.

(ccc). In the event two or more residential lots, parcels of real estate or buildings discharging sanitary sewage, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, for billing purposes, the quantity of water used shall be averaged for each user and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels of real estate, or buildings served through the single water meter.

(cccc). All of the above charges shall apply to services rendered within the corporate limits of the City. For services rendered outside the corporate limits of the City, the foregoing rates and charges shall be increased by fifty (50%) per cent.

(d). All accounts for sewage disposal service not paid within fifteen days from the due date thereof, as stated in such bills, may be subject to a collection or deferred payment charge of ten (10%) per cent of the gross bill, and delinquent bills shall be collected and enforced in the manner provided by law.

SECTION II

That all other provisions of General Ordinance No. 17-1954 and General Ordinance No. 9-1960, not expressly inconsistent herewith, shall remain and be in full force and effect. The rates and charges prescribed in General Ordinance No. 17-1954 shall remain in effect until the rates and charges herein provided shall become effective.

SECTION III

That the above and foregoing rates and charges shall become effective on the first day of January, 1958, and remain in effect until changed as provided by law.

SECTION IV

This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Passed and adopted by the Common Council of the City of Marion, Indiana, this 17th day of December, 1957.

Presiding Officer

Attest:

Presented by me to the Mayor of the City of Marion, Indiana, this 18 day of December, 1957.

Vernon Hoyt
Clerk, City of Marion

This Ordinance approved and signed by me as Mayor, City of Marion, this 18th day of December, 1957.

Mayor, City of Marion, Indiana

GENERAL ORDINANCE NO. 17, 1954

AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 9, 1940, ENTITLED "AN ORDINANCE ESTABLISHING A NEW SCHEDULE OF RATES AND CHARGES FOR THE USE OF AND SERVICE RENDERED BY THE SANITATION DEPARTMENT OF THE CITY OF MARION, INDIANA, AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH".

BE IT ORDAINED by the Common Council of the City of Marion, Indiana:

SECTION I.

That Section 1 of the above mentioned ordinance be amended to read, as follows:

****

(a) That the following rates and charges be, and the same are hereby established for the use of and the service rendered by said sewage disposal works of the City of Marion, Indiana, within the corporate limits of the City based on the amount of water used during each quarterly billing period on or in the property or premises subject to such rates and charges, as the same is measured by the water meter therein use, except as herein otherwise provided.

First 800	Cubic feet	--	$.18 per 100 cubic feet
Next 1,200	"	--	.09 per 100 cubic feet
Next 4,000	"	--	.06 per 100 cubic feet
Next 4,000	"	--	.05 per 100 cubic feet
Next 20,000	"	--	.04 per 100 cubic feet
All over 30,000	"	--	.03 per 100 cubic feet

(b) The minimum charge for any period rendered during any quarterly billing period shall be determined by the size of the water meter installed on the premises and shall be as follows:

5/8"	$1.80	2"	$ 8.50
3/4"	2.25	3"	15.00
1"	3.50	4"	30.00
1 1/2"	5.00	6"	50.00

(c) For service rendered outside the corporate limits of the City, the foregoing rates shall be increased by fifty (50%) percent.

(d) All bills for sewage disposal service not paid within fifteen (15) days from the due date thereof, as stated in such bills, shall be subject to a collection or deferred charge of ten (10%) percent on the first Three ($3.00) Dollars and three (3%) percent on the excess over Three ($3.00) Dollars.

SECTION II.

With the passage and approval of this Ordinance, all ordinances or parts of Ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

SECTION III.

This ordinance shall be in full force and effect from and after its passage and approval by the Mayor as provided by law and publication in pamphlet form.

PASSED in Common Council this 21 day of SEPTEMBER, 1954.

Ralph J. Leech
Mayor and Presiding Officer

ATTEST: Burdell Myers
City Clerk

Presented by me th the Mayor this 21 day of SEPTEMBER, 1954.

Burdell Myers
City Clerk

Approved by me this 21 day of SEPTEMBER, 1954.

Ralph J. Leech
Mayor

GENERAL ORDINANCE NO. 13-1953

AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 2-1940, ENTITLED "AN ORDINANCE FIXING THE SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM THE OWNERS OF PROPERTY SERVED, DIRECTLY OR INDIRECTLY, BY THE SEWAGE DISPOSAL WORKS OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH," PASSED BY THE COMMON COUNCIL ON THE 7TH DAY OF MAY, 1940, AND SIGNED AND APPROVED BY THE MAYOR ON THE 8TH DAY OF MAY, 1940, AND REPEALING ALL ORDINANCES AND PARTS OR SECTIONS OF ORDINANCES IN CONFLICT THEREWITH, AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Common Council of the City of Marion, Indiana, that the above mentioned Ordinance be amended to read as follows:

SECTION I.

Rates and charges shall be collected for the use of and the service rendered by said sewage disposal works from the owners of each and every lot, parcel of real estate or building that is connected with or uses such works, by or through any part of the sewerage system of the City of Marion, or that in any way uses or is served by such works, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable, as follows:

(c) The sewerage rate or charge to any metered user of water based on the above water rate shall be as follows:

(3) All bills for sewer service not paid within fifteen (15) days from the due date thereof, as stated in such bills, shall be subject to a collection or deferred payment charge of ten per cent (10%) on the First Three Dollars ($3.00) and three per cent (3%) on the excess over Three Dollars ($3.00).

(4) Any user of such sewer system whose building or connected sewer is located outside the city limits of the City of Marion shall pay a rate one hundred per cent (100%) greater than those above provided.

SECTION II.

With the passage and approval of this Ordinance, all Ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION III.

This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and publication as required by law.

Passed in Common Council this 2nd day of June, 1953.

Ralph J. Leech
Mayor and Presiding Officer.

ATTEST: Burdell Myers
City Clerk

Presented by me to the Mayor this 3rd day of June, 1953.

Burdell Myers
City Clerk

Approved by me this 3rd day of June, 1953.

Ralph J. Leech
Mayor.

GENERAL ORDINANCE NO. 9, 1940.

AN ORDINANCE FIXING THE SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM THE OWNERS OF PROPERTY SERVED, DIRECTLY OR INDIRECTLY, BY THE SEWAGE DISPOSAL WORKS OF SAID CITY, AND OTHER MATTERS CONNECTED THEREWITH.

RESOLUTION

WHEREAS, the City of Marion, pursuant to ~~General Ordinance~~ No. 21, 1938, adopted by the Common Council on the 20TH. day of SEPTEMBER, 1938, now has in course of construction and proposes to operate and maintain works for the treatment and disposal of sewage under the provisions of Chapter 61 of the Acts of the General Assembly of the State of Indiana for the year 1932, as amended by Chapter 137 of the Acts of 1933 and Chapter 198 of the Acts of 1935; and

WHEREAS, said Chapter 61 of the Acts of 1932, as amended, requires that the rates and charges collected for the use of, and service rendered by, such sewage disposal works be fixed by ordinance finally adopted after due notice and public hearing;

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Marion, Grant County, Indiana;

Section 1.

Rates and charges shall be collected for the use of and the service rendered by said sewage disposal works from the owners of each and every lot, parcel of real estate or building that is connected with or uses such works, by or through any part of the sewerage system of the City of Marion, or that in any way uses or is served by such works, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges, as the same is measured by the water meter there in use, except as herein otherwise provided.

(b) The water usage on which the amount of said rates and charges shall be determined shall be as follows:

First 6,000 gallons used per quarter year at $0.25 per 1000 Gal.
Next 9,000 gallons used per quarter year at $0.20 per 1000 Gal.
Next 30,000 gallons used per quarter year at $0.15 per 1000 Gal.
Next 45,000 gallons used per quarter year at $0.11 per 1000 Gal.
Next 5,000,000 gallons used per quarter year at $0.08 per 1000 Gal.
Next 5,000,000 gallons used per quarter year at $0.07 per 1000 Gal.
All over 10,075,000 gallons used per quarter year at $0.06 per 1000 gallons.

(c) The sewerage rate or charge to any metered user of water based on the above water rate shall be as follows:

(1) A minimum rate or charge of $1.80 per quarter year for each metered user regardless of the size of such meter, which such minimum is based on a water usage of 9,750 gallons per quarter.

(2) The excess sewerage rate or charge over and above such minimum shall be based on a charge equal to sixty per cent (60%) of the water charge to each metered user of water in excess of 9,750 gallons used per quarter.

(3) A discount of 5% shall be allowed for payment of said charges on or before said payment is due.

(4) Any user of such sewer system whose building or connected sewer is located outside the City limits of the City of Marion shall pay a rate 25% greater than those above provided.

(d) Water which is used in the process of manufacture or for any other purpose, which does not discharge into the public sewer system shall be exempt from charges, provided however, that the property owner shall install the necessary meters to indicate the amount of water which does not discharge into a combined or sanitary sewer of the sewer system of said City, which said meter shall be subject to the approval of the Board of Public Works and Safety of said City.

(e) In the event of a lot, parcel of real estate or building discharging sanitary waste, water or other liquid into the public sewer system of the City, either directly or indirectly is not a user of water supplied by the City and the water used thereon or therein is not measured by a City water meter or by a meter acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City in order to determine the rate or charge provided for in this Ordinance, or the owner, or other interested party, at his own expense, may install and maintain a water meter or other water or sewage measuring device acceptable to the Board of Public Works and Safety of said City for said purpose and the quantity of water used, as measured by said meter, shall be used to determine the sewage service charge and there shall be charged an amount determined by the sewerage service rates as herein set forth.

(f) In the event a lot, parcel of real estate or building discharges sewage in the form of industrial waste, either directly or indirectly, into the public sewer system of the City, and the City finds it is not practicable to attempt to measure such wastes by meter, it shall measure the same in such manner and by such method as it may find practical in the light of the conditions and attendant circumstances of the case in order to determine the rates and charges according to the corresponding rates provided in this ordinance. If the City finds that it is practicable to attempt to measure such wastes by meter, then the owner of the property shall install a meter acceptable to the City on ten (10) days notice.

(g) In order that the rates and charges may be justly and equitably adjusted to the service rendered, the City shall have the right to base its charges not only on volume, but also on the strength and character of the sewage and wastes discharged, either directly or indirectly, into the City's public sewer system in such manner and by such method as it may find practical, in the light of the condition and attending circumstances of the case in order to determine the proper charges. Said charges shall, where deemed necessary, be adjusted on a flat rate basis by the year.

(h) The City of Marion, Indiana, shall be subject to the terms of this ordinance and said City shall pay for the services rendered it by the public sewer system and said sewage treatment works.

(i) Such rates and charges shall be billed quarterly and shall be due and payable on or before the 15th day of the calendar month next succeeding the day of billing, provided, however, that the first billing may be for a period of more or less than a full quarter, in order to make the quarterly collection periods correspond with the meter readings of the Marion Water Works, depending upon the date upon which the sewage disposal works are placed in operation.

(j) The rates and charges may be billed to the tenant or tenants occupying the properties served, if requested in writing by the owners, but such billing shall in no wise relieve the owner from liability in the event payment is not made as herein required. The owners of properties served which are occupied by tenants, shall have the right to examine the collection records of the City for the purpose of determining whether such rates and charges have been paid by such tenants, provided that such examination shall be made at the office in which the records are kept and during the hours that the office of the Sewage Disposal Works Collection Department is open for business.

(k) The Board of Public Works and Safety of said City is hereby authorized to make any adjustment in any charges billed to a metered user of water for any purpose where such water does not enter the sewer system of said City.

(l) Charges for sewer service for any quarter which includes either the months of June, July or August, shall be subject to adjustment for water used for sprinkling during said quarter as follows: the charge for any consumer filing a statement with his bill prior to the time the same shall be due and payable, that sprinkling has been done during the quarter billed shall be reduced by an amount equal to 50% of the difference between the charge as computed by the rates established in this Ordinance, and the amount of the charge for the same premises for the second previous quarter.

Section 2

The rates and charges fixed herein shall be extended to and cover any additional premises hereinafter served, without the necessity of any hearing or notice. If any service rate or charge hereby established shall not be paid within thirty (30) days after thesame is due, a statement therefor shall be placed in the hands of the City Attorney, and it shall be the duty of the City Attorney to institute a civil action in the name of the City to recover the amount thereof, together with a penalty of ten (10%) per cent and a reasonable Attorney's fee, as provided by statute.

Section 3

The sections and subdivisions of this ordinance shall be deemed to be separate and several and if any part thereof shall be declared to be unconstitutional, the same shall not effect any other portion.

Section 4

This ordinance shall be in full force and effect from and after its passage and approval by the Mayor as provided by law and publication in pamphlet form.

Passed this 7th day of May, 1940.

Earl F. Harvey
Mayor & Presiding Officer

ATTEST:
Robert K. Custer
City Clerk

Presented by me to the Mayor this 8th day of May, 1940.

Robert K. Custer
City Clerk

Approved by me this 8th day of May, 1940.

Earl F. Harvey
Mayor

SEWER CHARGES

GENERAL ORDINANCE NO. 9 - 1940

(See Amendment - General Ordinance 25-1968)(page 210)

An ordinance establishing a new schedule of rates and charges for the use of and service rendered by the Sanitation Department of the City of Marion, Indiana and repealing all ordinances and parts of ordinances in conflict herewith.

Whereas, the City of Marion, pursuant to Resolution No. 4, 1938, now has in course of construction and proposes to operate and maintain works for the treatment and disposal of sewage under the provisions of Chapter 61 of the Acts of the General Assembly of the State of Indiana for the year 1932, as amended by Chapter 187 of the Acts of 1933 and Chapter 198 of the Acts of 1935; and

Whereas, said Chapter 61 of the Acts of 1932, as amended, requires that the rates and charges collected for the use of, and service rendered by, such sewage disposal works be fixed by ordinance finally adopted after due notice and public hearing;

Now, therefore, be it ordained, by the Common Council of the City of Marion, Indiana:

Sec. 1. For the use of and the service rendered by said sewage disposal works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the city's sanitary sewerage system or other wise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewerage system of the City of Marion, Indiana, by or through any part of the sewerage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates, as the same is measured by the water meter there in use, except as herein otherwise provided. That the following rates and charges be, and the same are hereby established for the use of and the service rendered by said sewage disposal works of the City of Marion, Indiana, within the corporate limits of the city based on the amount of water used during each quarterly billing period on or in the property or premises subject to such rates and charges as otherwise herein provided.

(b) The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used during each quarterly billing period:

Quantity of Water Used Per Quarter		Rate per 100 cu. ft.
First	1800 cu. ft.	$.35 per 100 cu. ft.
Next	4200 cu. ft.	.18 per 100 cu. ft.
Next	4000 cu. ft.	.16 per 100 cu. ft.
Next	20,000 cu. ft.	.13 per 100 cu. ft.
Next	30,000 cu. ft.	.10 per 100 cu. ft.
Next	40,000 cu. ft.	.07 per 100 cu. ft.
Next	900,000 cu. ft.	.055 per 100 cu. ft.
All over	1,000,000 cu. ft.	.045 per 100 cu. ft.

The above rates and charges are in addition to water rates and charges.

(c) The minimum charge for any service where the user is a metered water consumer shall be based on the size of such water meter and shall be as follows:

Size	Quarterly Minimum
5/8" water meter	$ 3.15
3/4" water meter	6.50
1" water meter	10.00
1 1/2" water meter	14.00
2" water meter	25.00
3" water meter	50.00
4" water meter	100.00
6" water meter	165.00

(cc) The minimum charge for any service where the user is not a metered water consumer shall be based on the size of the service connection, but no such charge shall be less than the corresponding minimum meter charge.

(ccc) In the event two or more residential lots, parcels of real estate or buildings discharging sanitary sewage, water or other liquids into the city's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, for billing purposes, the quantity of water used shall be averaged for each user and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels of real estate, or buildings served through the single water meter.

(cccc) All of the above charges shall apply to services rendered within the corporate limits of the city. For services rendered outside the corporate limits of the city, the foregoing rates and charges shall be increased by 50%.

(d) All accounts for sewage disposal service not paid within 15 days from the due date thereof, as stated in such bills, may be subject to a collection or deferred payment charge of 10% of the gross bill, and delinquent bills shall be collected and enforced in the manner provided by law. (Section 1. (a), (b), (c) and (d) as amended by Ord. No. 34-1958 passed Aug. 19, 1958.)

(e) Water which is used in the process of manufacture or for any other purpose, which does not discharge into the public sewer system shall be exempt from charges, provided however, that the property owner shall install the necessary meters to indicate the amount of water which does not discharge into a combined or sanitary sewer of the sewer system of said city., which said meter shall be subject to the approval of the Board of Public Works and Safety of said city.

(f) In the event of a lot, parcel of real estate or building discharging sanitary waste, water or other liquid into the public sewer system of the city, either directly or indirectly, is not a user of water supplied by the city and the water used thereon or therein is not measured by a city water meter or by a meter acceptable to the city, then the amount of water used shall be otherwise measured or determined by the city in order to determine the rate or charge provided for in this ordinance, or the owner, or other interested party, at his own expense, may install and maintain a water meter or other water or sewage measuring device acceptable to the Board of Public Works and Safety of said city for said purpose and the quantity of water used, as measured by said meter, shall be used to determine the sewage service charge and there shall be charged an amount determined by the sewerage service rates as herein set forth.

(g) In the event a lot, parcel of real estate or building discharges sewage in the form of industrial waste, either directly or indirectly, into the public sewer system of the city, and the city finds it is not practicable to attempt to measure such wastes by meter, it shall measure the same in such manner and by such method as it may find practical in the light of the conditions and attendant circumstances of the case in order to determine the rates and charges according to the corresponding rates provided in this ordinance. If the city finds that it is practicable to attempt to measure such wastes by meter, then the owner of the property shall install a meter acceptable to the city on 10 days notice.

(h) In order that the rates and charges may be justly and equitably adjusted to the service rendered, the city shall have the right to base its charges not only on volume, but also on the strength and character of the sewage and wastes discharged, either directly or indirectly, into the city's public sewer system in such manner and by such method as it may find practical, in the light of the condition and attending circumstances of the case in order to determine the proper charges. Said charge shall, where deemed necessary, be adjusted on a flat rate basis by the year.

(i) The City of Marion, Indiana, shall be subject to the terms of this ordinance and said city shall pay for the services rendered it by public sewer system and said sewage treatment works.

(j) Such rates and charges shall be billed quarterly and shall be due and payable on or before the 15th of the calendar month next succeeding the day of billing, provided, however, that the first billing may be for a period of more or less than a full quarter, in order to make the quarterly collection period correspond with the meter readings of the Marion Water Works, depending upon the date upon which the sewage disposal works are placed in operation.

(k) The rates and charges may be billed to the tenant or tenants occupying the properties served, if requested in writing by the owners, but such billing shall in no ways relieve the owner from liability in the event payment is not made as herein required. The owners of properties served which are occupied by tenants, shall have the right to examine the collection records by tenants, shall have the right to examine the collection records of the city for the purpose of determining whether such rates and charges have been paid by such tenants provided that such examination shall be made at the office in which the records are kept and during the hours that the office of the Sewage Disposal Works Collection Department is open for business.

(1) The Board of Public Works and Safety of said city is hereby authorized to make any adjustment in any charges billed to a metered user of water for any purpose where such water does not enter the sewer system of said city.

Charges for sewer service for any quarter which includes either the months of June, July or August, shall be subject to adjustment for water used for sprinkling during said quarter as follows: the charge for any consumer filing a statement with his bill prior to the time same shall be due and payable, that sprinkling has been done during the quarter billed shall be reduced by an amount equal to 50% of the difference between the charge as computed by the rates established in this ordinance, and the amount of the charge for the same premises for the second previous quarter.

Sec. 2. The rates and charges fixed herein shall be extended to and cover any additional premises hereinafter served, without the necessity of any hearing or notice. If any service rate or charge hereby established shall not be paid within 30 days after the same is due, a statement therefor shall be placed in the hands of the City Attorney, and it shall be the duty of the City Attorney to institute a civil action in the name of the city to recover the amount thereof, together with a penalty of 10% and a reasonable attorney's fees, as provided by statute.

Sec. 3. The sections and subdivisions of this ordinance shall be deemed to be separate and several and if any part thereof shall be declared to be unconstitutional, the same shall not effect any other portion.

Sec. 4. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor as provided by law and publication in pamphlet form.

Passed May 7, 1940.

RESOLUTION 1 - 2001

RESOLUTION OF THE MARION UTILITY SERVICE BOARD
FOR ADOPTION OF RULE AND REGULATION PERTAINING TO
EXTENSION OF WATER AND SEWER LINES
MEETING CERTAIN REQUIREMENTS WITHIN AN URBAN ENTERPRISE ZONE
IN THE CITY OF MARION, INDIANA

WHEREAS, the Marion Utility Service Board (hereinafter "Board") has been given rule and regulatory power with respect to the installation of water and sewer lines in the City of Marion; and

WHEREAS, it is specifically provided under City Code Sections 36-9-2-14 and 36-9-2-17 that no provision in the existing City Code shall prevent the Board from extending water and sewer lines under a policy that is different from the policy in existence so long as the public interest is thereby served; and

WHEREAS, the City of Marion is currently experiencing difficult economic conditions and the community has experienced a substantial reduction in the number of jobs due to plant closings and loss of businesses in the community; and

WHEREAS, the Board believes that it would be in the best interest of the community and of the Marion Municipal Utilities to adopt a resolution whereby the Board, in certain cases and under certain conditions, may authorize the utilities under its jurisdiction to participate in the extension of utility service lines subject to certain conditions and restrictions or qualifications.

NOW THEREFORE, BE IT RESOLVED, that the Marion Utility Service Board amends its existing water and waste water regulations by adopting the following regulation in an open meeting and after due consideration to provide and read as follows:

> Regulation No. ____. Extension of Water and Waste Water Service Lines in Urban Enterprise Zone. Whenever an applicant for water or waste water services owns or leases property in an Urban Enterprise Zone within the City of Marion and makes application for the repair, replacement or extension of service lines from existing mains to the applicant's property line, the applicant may petition the Marion Utility Service Board for participation in the installation or reinstallation of those lines provided the applicant can meet the following criteria:
>
> (a) The property owner is a not for profit organization;

(b) The applicant can demonstrate to the satisfaction of the Board that it will provide at least 100 new jobs in the community with pay and benefits that will exceed minimum wage by at least $4.00 per hour;

(c) The proposed costs to the Utilities will not exceed a sum equal to $100.00 per new job being created;

(d) The projected estimated volume of water usage and waste water being discharged into the system will generate sufficient revenue whereby the Utilities will be able to recoup the costs to the Utilities within 6 years; and

(e) The property owner will agree and acknowledge in writing that the owner will continue to be responsible for the maintenance and repair of the service lines after the installation or reinstallation is concluded.

Before the Board agrees to participate in the installation or reinstallation of the services lines, the Board must be satisfied that all of the above criteria have been met. The Board may impose any other conditions or limitations which it deems proper under the circumstances and in the best interest of the Marion Municipal Utilities and the public.

Copies of this Resolution shall be made available to the public by providing copies for inspection in the Business Office of the Marion Municipal Utilities and in the Office of the Marion City Clerk.

Adopted at a regular and open meeting of the Board this 18th day of October, 2001.

MARION UTILITY SERVICE BOARD

By _____
William E. Dorsey, Chairman

Attest:

Ruthanna Nestleroad

Ruthanna Nestleroad, Secretary

This page contains clickable links.

TITLE V: PUBLIC WORKS

CHAPTER 53: STORM WATER UTILITY REGULATIONS

CHAPTER 53: STORM WATER UTILITY REGULATIONS

Section

General Regulations
53.001 Rules and regulations
53.002 Definitions
Rates and Charges
53.020 User class
53.021 User fees
53.022 Base units and appeal procedures
53.023 Billing procedures
53.024 Credit for qualified retention basin
53.025 Depreciation Fund
53.026 Bond reserve
Illicit Discharges and Connections
53.040 Purpose
53.041 Applicability
53.042 Authorized agent
53.043 Ultimate responsibility
53.044 Discharge prohibitions
53.045 Industrial or construction activities discharge
53.046 Monitoring of discharges
3.047 Requirement to prevent, control, and reduce storm water pollutants by choice of Best Management Practices
53.048 Notification of spills
53.049 Enforcement
53.050 Issuance of cease and desist orders
53.051 Submission of schedule
53.052 Appeals
Abatement
53.060 Public nuisance
53.061 Legal action
53.062 Damage to facilities
53.063 Falsifying information
53.064 Termination of service
53.999 Penalty

GENERAL REGULATIONS

§ 53.001 RULES AND REGULATIONS.

The rules and regulations under which storm water systems shall be operated are incorporated by reference under this chapter. Two copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for inspection in accordance with I.C. 36-1-5. Another copy shall be filed for the convenience of the public in the general office of the Utility.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASE UNIT. An amount which equates runoff from all properties to that of the average amount from a single-family residential property, presently set at 2,521 square feet.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BOARD. The Utilities Service Board.

CITY. The City of Marion acting by and through the Council.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of five acres or more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

COUNCIL. The Common Council of the City of Marion, or any duly authorized officials acting on its behalf.

IMPERVIOUS AREA. The total hard surface area (asphalt, concrete, stone, etc.) that is contained on a lot or parcel, or within a development tract. Hard surface area shall include, but not be limited to, driveways, parking areas, sidewalks, other paved areas, and all areas under roof.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in § 53.044.

ILLICIT CONNECTIONS. An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Board or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Board.

INDUSTRIAL ACTIVITY. Activities subject to NPDES Industrial Permits as defined in 40 CFR, § 122.26 (b) (14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM or ***MS4.*** A conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:

(1) Owned or operated by:
  (a) The City of Marion; or
  (b) Indiana Wesleyan University;
(2) Designed or used for collecting or conveying storm water;
(3) Not a combined sewer; and
(4) Not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 122.2.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by EPA (or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

QUALIFIED RETENTION FACILITY. An artificial basin, designed and approved under the requirements of the Board, and operated to reduce peak discharge from an area by use of temporary storage. At the discretion of the Board, existing retention/detention facilities may be considered.

REPLACEMENT COSTS. The expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of storm water collection facilities to maintain the capacity and performance for which such works were designed and contracted.

SHALL is mandatory; ***MAY*** is permissive.

SEWAGE WORKS. Shall have the meaning as defined in I.C. 36-9-1-8.

STORM DRAINAGE SYSTEM. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORM WATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER POLLUTION PREVENTION PLAN. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify

sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

STORM WATER UTILITY,STORM WATER WORKS,STORM WATER FACILITIES or like terms where used in this chapter, shall mean all constructed pipes, mains, facilities, structures and natural water courses under the control of the city used for collecting and conducting storm water through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: mains, pipes, lift stations, inlets, conduits and pertinent features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations; and excluding there from any part of the system of drains and water courses under the jurisdiction of the Grant County Drainage Board.

USER CLASS. The division of storm water properties between residential, nonresidential, and users without direct or indirect stormwater discharges to the city system.

USER FEES. Dedicated charges paid by users and are based on the estimated amount of water that leaves their property.

USERS. The owners or tenants of properties within the city limits containing impervious areas that add runoff or sewage to the storm water or sanitary systems.

(1) ***RESIDENTIAL USER CLASS.***

(a) A lot or parcel improved with a structure used primarily as a single-family or two-family residence, or

(b) A lot or parcel improved with a structure used primarily for residential purposes having less than 5,000 square feet of impervious area, each of which discharge storm water, directly or indirectly, into the storm water or sanitary systems of the city.

(2) ***NON-RESIDENTIAL USER CLASS.*** Properties that do not meet the definition of ***RESIDENTIAL USER CLASS*** and that discharge storm water, directly or indirectly, into the storm water or sanitary systems of the city.

(3) ***USERS WITHOUT DIRECT OR INDIRECT DISCHARGE CLASS.*** All other properties that do not meet the definition of ***RESIDENTIAL OR NON-RESIDENTIAL USER CLASSES***, are within city limits, and that do not discharge stormwater directly or indirectly into the stormwater or sanitary systems of the city. This user shall pay cost allocated for the operation and maintenance of the systems serving city streets and right-of-ways.

WASTEWATER. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

RATES AND CHARGES

§ 53.020 USER CLASS.

Every user shall be charged for the services provided. These charges are established for each user class, as defined, in order that the storm water utility shall recover, from each user and user class, revenue which is proportional to its measurement of impervious area. The various classes of users of the storm water collection system for purposes of this chapter shall be as follows:

(A) Class 1. Residential;

(B) Class 2. Non-Residential; and

(C) Class 3. Users Without Direct or Indirect Discharge.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.021 USER FEES.

For the use of and the service rendered by said storm water utility, user fees shall be collected from the users. Such user fees shall be in an amount determinable as follows:

(A) User fees per month:

(1) Residential class: $5;

(2) Non-residential class: $5 x (number of base units, determined by the impervious area);

(3) User without direct/indirect discharge: $5 x (number of base units, determined by the impervious area) x 0.23.

(B) In any user class where tenants reside in structures which provide multiple residences, the monthly bill for that structure shall be divided by the number of water meters serving that structure and paid by the tenant responsible for paying the water bill for that meter. The foregoing shall not apply if the owner of such structure pays the user fees.

(C) For the service rendered to the city, said city shall be subject to the same user fees herein above provided. Impervious area located within a public dedicated or public owned right-of-way shall not be subject to a user fee.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.022 BASE UNITS AND APPEAL PROCEDURES.

(A) The amount of impervious area subject to the user fees shall be determined by the Board. The Board may make proper allowances in determining the base units allocable to a user and may round the total amount of impervious area to always result in base units expressed as a whole figure.

(B) Appeal procedure. If, in the opinion of any user, the amount of base units attributable to such user is inaccurate, the user shall have the right to contest said calculation in the following manner.

(1) The user shall obtain and complete a petition to appeal the amount of base units, which shall be returned to the Director of Utilities with a copy of a survey or other verifiable documentation supporting the user's claim.

(2) Upon review of the user's claim, the Director of Utilities shall render a written determination that either the original calculation should be affirmed or the user should be assigned a new figure of base units. The Director of Utilities' determination is subject to review by the Board.

(3) If the user receives a new figure for base units which is lower than the original amount assigned to such user, the user shall be credited accordingly for any overpayment made from the date the original base unit calculation was implemented; provided, however, that such credit shall not exceed the overpayment for a period which extends beyond the immediately preceding 12 calendar months. Said credit shall apply to future service provided to the user until the overpayment has been fully satisfied. If the user's petition is denied, said opinion shall be forwarded to the user by certified mail, return receipt requested. The user shall then have seven days from date of receipt to request reconsideration by the Board. The user shall submit a copy of the original petition and supporting documents to the Board and any additional facts concerning the dispute. The Director of Utilities shall submit a copy of the determination denying the user's claim, along with any supporting documents. Thereafter, the Board shall designate a hearing officer who shall conduct, as soon as practicable, an informal hearing to determine and resolve the dispute based upon the documentation submitted and oral testimony of the user. The hearing officer shall render a written decision at the close of the hearing or within 30 days thereafter. The determination by such hearing officer shall constitute the final

administrative determination and shall be binding on both parties. The hearing shall be electronically recorded. A transcript of the hearing shall be provided at a cost of $1 per page.

(4) A party or person aggrieved by the final administrative determination shall have the right to a judicial review of such determination in accordance with the provisions of the Indiana Administrative Adjudication Act.

(5) Dispute or appeal of the amount of base units attributable to a user shall not be a valid reason for non-payment of the user fees.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.023 BILLING PROCEDURES.

Such rates and charges shall be prepared, billed and collected by the city in the manner provided by law and ordinance.

(A) The user fees for all users shall be prepared and billed monthly.

(B) The user fees may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the city for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.

(C) As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of 10% of the amount of the rates or charges shall thereupon attach thereto. The time at which such rates or charges shall be paid is now fixed at 17 days after the date of mailing of the bill.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.024 CREDIT FOR QUALIFIED RETENTION BASIN.

(A) For any user that has a qualified retention facility on the property being charged pursuant to this chapter, such user is entitled to a credit to be determined by the Board. Procedures used to calculate the credit and the factor for determining the impact of increased runoff volume shall be prescribed and set by the Board.

(B) Calculation of discharge from developed sites and storm water detention/retention basins, as well as storm water runoff volumes from developed and undeveloped sites shall use methodology which is in accordance with acceptable engineering practice. Peak discharge, hydrograph, flood routing, and runoff volume procedures used by the Soil Conservation Service, the Corps of Engineers, and the Bureau of Reclamation, among others, are considered acceptable.

(C) Any credit given to a user shall reduce the amount of base units attributable to such user, but no credit may reduce the initial base units by more than 50%. Before such credit is granted, the user must establish that its facility meets the definition of a qualified retention facility. In addition, such credits shall be subject to an annual review by the Board to determine continuing compliance with the provisions of this chapter.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.025 DEPRECIATION FUND.

A Depreciation Fund shall be continued for the purpose of meeting special or unforeseen emergencies in connection with the operation of the sewage works, or for the payment of the costs of constructing extensions, improvements, betterments or additions to the sewage works. A subaccount of said Depreciation Fund entitled "Capital Account" may only be used for the

construction, remodeling, repair and extension of storm sewers; relief sewers and drains in aid of the sanitary system or storm water system; and the payment of the city's part of the costs of any public sewer or drainage project that lies partly or wholly within the city and aids or is connected to the sewage works system or storm water system of the city.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.026 BOND RESERVE.

In accordance with I.C. 36-9-23-25(b)(2) and I.C. 36-9-23-21, the Common Council has determined that a portion of the user fees collected under the terms of this chapter may be used to establish a reserve for revenue bonds to be issued by the city.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

ILLICIT DISCHARGES AND CONNECTIONS

§ 53.040 PURPOSE.

The purpose of this subchapter is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives are:

(A) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(B) To prohibit illicit connections and discharges to the municipal separate storm sewer system.

(C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.041 APPLICABILITY.

This subchapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Board.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.042 AUTHORIZED AGENT.

The Board shall be the authorized agent for the city to insure that the provisions of this chapter are carried out.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.043 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this subchapter are minimum standards; therefore this subchapter does not intend nor imply that compliance by any person will insure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.044 DISCHARGE PROHIBITIONS.

(A) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering,

diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated), fire fighting activities, and any other water source not containing pollutants.

(2) Discharges specified in writing by the Indiana Department of Environmental Management as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the Board or its authorized agent prior to the time of the test.

(4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(B) *Prohibition of illicit connections.* No person shall construct, use, maintain or continue the existence of illicit connections to the storm drain system. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this subchapter if the person connects a line conveying wastewater to the MS4, or allows such a connection to continue.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.045 INDUSTRIAL OR CONSTRUCTION ACTIVITIES DISCHARGE.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Board prior to the allowing of discharges to the MS4.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.046 MONITORING OF DISCHARGES.

(A) *Applicability.* This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The Board or its authorized agent shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Board or its authorized agent.

(2) Facility operators shall allow the Board or its authorized agent the ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The Board or its authorized agent shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Board or its authorized agent to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Board or its authorized agent has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be

maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Board or its authorized agent shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the access to a permitted facility are a violation of this chapter. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Board or its authorized agent reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

(7) If the Board or its authorized agent has been refused access to any part of the premises from which storm water is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Board or its authorized agent may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.047 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY CHOICE OF BEST MANAGEMENT PRACTICES.

The Board will adopt requirements identifying Best Management Practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system through the use of BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.048 NOTIFICATION OF SPILLS.

In addition to the requirements of 327 IAC 2-6.1, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence. In the event of a release of non-hazardous materials, said person shall notify the Board or its authorized agent in person or by phone or facsimile no later than the next business day. Notifications in person or by phone

shall be confirmed by written notice addressed and mailed to the Board or its authorized agent in three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.049 ENFORCEMENT.

(A) *Notification of violation.* If the Board finds that any discharger has engaged in conduct which justifies suspension of service, the Board shall serve the discharger with a written notice, either personally or by certified or registered U.S. mail, stating the nature of the alleged violation. Within ten days following receipt of the notice, the discharger shall respond personally or in writing to the Board, advising of its position concerning the allegations. Thereafter, the parties shall meet to determine the seriousness of the allegations and, if necessary, establish a plan for the satisfactory correction of any violations.

(B) *Show cause hearing.* If a violation of this chapter or of applicable storm water management regulations occurs and is not corrected by timely compliance, the Board may order any discharger to show cause before them and state why the proposed suspension of service should not be taken. A written notice shall be served on the discharger by personal service, or by certified or registered U.S. mail, specifying the time and place of a hearing to be held by the Board. The hearing shall consider the violation, the proposed enforcement action, the reasons why the enforcement action should be taken, and directing the discharger to show cause before the Board as to why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of a discharger. The proceedings at the hearing shall be considered by the Board and appropriate orders with respect to the alleged improper activities of the discharger shall be issued.

(C) *Violation by government entities.* If a violation of this chapter or of applicable storm water management regulations occurs by other government entities, the Board shall serve the government entity with a written notice, either personally or by certified or registered U.S. mail, stating the nature of the alleged violation and shall direct the government entity to correct the violation.

(D) *Annual publication of violators.* A list of all dischargers which were found to be in significant noncompliance shall be published annually by the Board in the largest daily newspaper in the municipality in which the Board is located.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.050 ISSUANCE OF CEASE AND DESIST ORDERS.

When the Board or its authorized agent finds that a discharge has taken place, in violation of prohibitions or limitations of this chapter, the Board may issue an order to cease and desist and direct that those persons not complying with those prohibitions, limits, requirements or provisions to:

(A) Comply forthwith;

(B) Comply in accordance with a time schedule set forth by the Board; or

(C) Take appropriate remedial or preventive action in the event of a threatened violation.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.051 SUBMISSION OF SCHEDULE.

If the Board finds that a discharge has been taking place, in violation of prohibitions or limitations prescribed in this chapter, or storm water pollution prevention requirements, or the provisions of a storm water discharge authorization, the Board may require the user to submit for approval, with those modifications it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.052 APPEALS.

(A) Any user affected by any decision, action or determination, including cease and desist orders, made by the Board or its authorized agent, interpreting or implementing the provisions of this chapter or in any authorization issued herein, may file with the Board or its authorized agent a written request for reconsideration within ten days of the decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the Board is unsatisfactory to the person requesting reconsideration, he or she may, within ten days after notification of Board action, file a written appeal to the Board. The written appeal shall be heard by the Board within 30 days from the date of filing. The Board shall make a final ruling on the appeal within ten days after the close of the meeting. The Board's or its authorized agent's decision, action or determination shall remain in effect during that period of reconsideration.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

ABATEMENT

§ 53.060 PUBLIC NUISANCE.

Discharges of pollutants in any manner in violation of this chapter or of any order issued by the Board as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the Board. Any person creating a public nuisance is guilty of an ordinance violation.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.061 LEGAL ACTION.

If any person discharges sewage, industrial wastes or other wastes into a city's municipal separate storm sewer system (MS4) contrary to this chapter, ordinance, federal or state pretreatment requirements, or any order of the city, the city or Board Attorney may commence an action for appropriate legal relief, equitable relief or both in the applicable court.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.062 DAMAGE TO FACILITIES.

When a discharge of wastes causes an obstruction, damage, or any other impairment to Board facilities, the Board may assess a charge against the user for the work required to clean or repair the facility, and add that charge to the user's charges and fees.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.063 FALSIFYING INFORMATION.

Any person who knowingly makes any false statement of representation, record, report, plan or other documents filed with the Board or who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required under this section shall be subject to the penalties set forth in § 53.064.
(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.064 TERMINATION OF SERVICE.

(A) *Suspension due to illicit discharges in emergency situations.* The Board may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to

stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Board may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State of Indiana, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Board or its authorized agent will notify a violator of the proposed termination of its MS4 access. The violator may petition the Board for a reconsideration and hearing.

(C) *Offense.* A person commits an offense if the person reinstates an access to a MS4 terminated pursuant to this section, without the prior approval of the Board.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

§ 53.999 PENALTY.

(A) Any user which has violated a prohibition or continues to violate this chapter, or failed to meet a requirement of this chapter shall be liable to the Board for a minimum civil penalty of $1,000 per violation per day.

(B) The Board may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Board facilities.

(C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(D) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

(Ord. 18-2005, passed 6-21-2005; Am. Ord. 43-2005, passed 1-3-2006)

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CITY OF MARION, INDIANA

MARION UTILITY SERVICE BOARD
STORMWATER RULES AND REGULATIONS

A. Definitions

For the purpose of this Code section, the following words and phrases shall have the meanings respectively ascribed to them below:

BEST MANAGEMENT PRACTICES (BMP) – Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BOARD - means the City Utility Service Board or any duly authorized officials acting on its behalf.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT- Means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

OUTLET - Any outlet, natural or constructed, which is the point of final discharge of stormwater into any watercourse, pond, ditch, lake or other body of surface or ground water.

RECEIVING STREAM - The water course, stream or body of water receiving the waters finally discharged from the storm conveyance system.

SANITARY SEWAGE - Sewage discharged from the sanitary convenience of dwellings, including apartment houses and hotels, office buildings, factories or institutions and free from storm water, surface water and industrial wastes.

SERVICE CHARGE - The basic assessment, based on the amount of impervious area, levied on all users of the public sewerage system.

SEWER - A pipe or conduit for carrying sewage, stormwater, or other waste liquids.

SEWER, COMBINED - A sewer which carries storm, surface and ground-water runoff and sewage.

SEWER, PRIVATE STORM – A sewer which carries storm, surface and ground water drainage but excludes sanitary sewage and is owned and maintained by an individual or entity other than the Marion Municipal Utilities.

SEWER, SANITARY - A sewer which carries sewage and to which storm, surface and ground waters and unpolluted industrial waste waters are not intentionally admitted.

SEWER, STORM - A sewer which carries storm, surface and ground water drainage but excludes sanitary sewage.

STORM CONVEYANCE SYSTEM - A system of catch basins, pipes, ditches, manmade channels, or storm drains, that is:

(1) Owned, operated, and under the authority of the City Marion Utility Service Board

(2) Designed or used for collecting or conveying storm water;

(3) Not a combined sewer

STORMWATER UTILITY - Storm water works", Storm water facilities" or like terms where used in this ordinance shall mean all constructed pipes, mains, facilities, structures and natural water courses under the control of the City used for collecting and conducting storm water through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: mains, pipes, lift stations, inlets, conduits and pertinent features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations; and excluding there from any part of the system of drains and water courses under the jurisdiction of the Grant County Drainage Board.

UTILITY - The City Water, Wastewater, and Stormwater utility owned by the City, operated and managed by the City Utility Service Board and engaged in furnishing public water supply, wastewater, and stormwater service in the City and its environs.

UTILITY ENGINEER - The Utility Engineering Superintendent or his/her duly authorized representative.

WATERCOURSE - A channel in which a flow of water occurs either continuously or intermittently.

B. Rules and Regulations on File

A copy of all rules and regulations under which stormwater service shall be rendered is filed for public inspection in the Utility general office. These items are incorporated by reference into this Code section in accordance with Indiana Code 36-1-5, with two (2) copies being on file in the Office of the City Clerk and available for public inspection.

C. Authority of Utility Service Board

The City Utility Service Board shall, in accordance with the State law, make and enforce whatever bylaws, rules and regulations it deems necessary for the safe, economical and efficient management of the stormwater utility, for the construction and use of private storm sewers and connections to the sewerage system including storm water and surface drainage, for the regulation, collection and refunding of the rates and charges for stormwater service and for the extension or replacement of sewer mains.

D. Connections to Public Sewers

No owner or occupant of any real property shall tap or drain directly into any public sewer until a sewer tap permit has been obtained and until that person has satisfied his or her obligation to pay all assessments, reimbursements or pro rata shares of sewer extension costs laid against the property for public sewers installed to serve it.

Tap permits shall be obtained from the Utility Engineering Department and shall be issued only to licensed sewer tap contractors. After making each sewer tap and building sewer installation, the tap contractor shall notify the Utility Engineering Department at least three (3) hours in advance so that the tap and building sewer can be inspected and approved before the excavation is backfilled.

All sewer permits shall be valid for one (1) year after date of issue shown on the permit. If work is not completed in this year, it shall be necessary to secure a new permit.

Any tap or building sewer installation not made in accordance with the foregoing provisions shall be deemed an illegal installation and upon discovery, shall be promptly disconnected until the provisions of this Code section have been complied with.

E. Downspouts, Yard Drains and Storm Water

The Utility may require an owner of real property to disconnect from a building sewer which drains into a sanitary or combined sewer any downspouts, yard drains or other drains which carry the runoff from natural precipitation. Property owners shall have thirty (30) days' notice to comply with any such requirements.

F. Billing of Service Charges

Charges for stormwater shall be prepared and billed by the Utility Office along with the bills for water service and shall be payable at the office at the same time as the water bills.

G. Liability for Payment

The charges for stormwater shall be billed to the person receiving that service unless, by contract with the Utility, another person assumes such responsibility. If a tenant is billed, the owner shall in no way be relieved of liability if required payments are not made by the tenant. That owner shall have the right to examine the Utility's collection records during regular business hours to ascertain whether those charges have been paid.

H. Delinquent Accounts

Charges for stormwater shall be due and payable on or before the dates shown on the bills. Any stormwater charge not paid by the date, approximately fifteen (15) days after the bill is rendered, shall be considered delinquent. A delinquent charge together with any applied penalty shall be collectible as set forth below:

(1) Collection-By Shutting Off Water Service

Where the property having a delinquent sewer account is served by the water utility, the Utility may, after mailing a written notice at least ten (10) days in advance to the water customer and to the property owner, shut off water service to the property. The water service shall not be turned back on until the delinquent service charges and the costs of turning water service off and back on have been paid.

(2) Collection-Through Tax Duplicate

As provided by State law, delinquent sewer service charges may be made a lien against the property served through certification to the County Auditor and County Recorder. In that case, the delinquent service charges, together with a mandatory penalty of ten (10) per cent, shall be placed on the tax duplicate and be collected in the same manner as regular taxes and assessments are collected.

I. Collection - Through Court Actions

In addition to the foregoing remedies, the Utility may bring a civil action to recover any delinquent charges together with a penalty of ten (10) per cent and a reasonable attorney's fee.

J. City Subject to Rates and Charges

The City shall be subject to the same rates and charges herein established for other persons.

K. Obstructing or Damaging a Municipal Storm Conveyance System

If an municipal storm conveyance system system becomes obstructed or damaged through discharge of prohibited materials, the person responsible for that discharge shall be billed and shall pay for the expenses incurred by the Utility for cleaning out, repairing or rebuilding the system.

L. Stormwater NPDES Permits

It is the customer's responsibility to obtain and comply with any required NPDES permits for stormwater discharges. Any BMP's must be approved by and meet Utility Engineering Dept. specifications. These are to be installed by the customer on his or her own lines at his or her own expense and shall be maintained by him or her so that none of such substances can be carried over into the public sewers.

M. Private Storm Sewers

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the storm system or appurtenance of it without first obtaining a written permit from the Utility Engineering department.

(2) All costs and expense incident to the installation and connection of the private storm sewer shall be borne by the owner. The owner shall indemnify the Utility for any loss or damage that may directly or indirectly be occasioned by the installation of such sewer.

(3) A private storm sewer shall not cross the property of another private owner unless that private owner has granted an easement for that sewer which is duly recorded in the office of the County Recorder.

(4) Old private storm sewers may be used in connection with new buildings or development only when they are found, upon examination and test, to meet the current code requirements for building sewers.

(5) The size, slope, alignment, materials of construction, methods of excavation, placing

pipe, jointing methods, testing and backfilling of the sewer shall conform to the applicable rules and regulations of the Utility Engineering Department or the State.

(7) No person shall make connections of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a sanitary or combined sewer.

(8) The connection of the private storm sewer into the storm conveyance system shall conform to the applicable rules of the Utility engineering department. All such connections shall be made gas and water tight.

(9) After making each private storm sewer installation, the contractor shall notify the Utility Engineering Department so that the tap and sewer installation can be inspected and approved before the excavation is backfilled.

(10) All excavations for sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property shall be restored in a manner satisfactory to the City Engineer.

N. Connection of Private Storm Sewer

The private sewer shall generally enter the public storm sewer main by way of an existing wye, tee, or manhole. If there is no wye or tee, the connection to the sewer main or lateral shall be made by one of the methods indicated below. If another method is desired, a detail shall be submitted for review and approval by the Utility Engineer before the connection is made. Indiscriminate breaking of the sewer main pipe shall not be permitted.

(1) Installation of a manhole.

(2) Circular saw-cut of sewer main by proper tools such as a "Sewer Tap" machine, and proper installation of hub wye saddle or hub tee saddle, in accordance with the manufacturers specifications.

(3) Saw cut and remove an entire section of pipe and replace with a wye or tee branch section. The wye or tee branch shall be held in place by two Fernco type rubber

couplings.

O. Sewer Extension

All new developments, subdivisions, apartment complexes, shopping centers, hotels, restaurants, or any other commercial or industrial development shall include adequate storm sewer systems.

If adequate public sewers do not exist, then the developer shall extend or cause to be extended adequate public sewers. Plans for any public sewer extension must be approved by the Utility Engineering department. All extensions shall be designed and constructed in accordance with the current requirements of the Utility Engineering Department.

Any sewer extensions accomplished without prior review and approval of the Utility Engineering Department and inspection during construction shall be deemed an illegal extension and upon discovery, shall be promptly disconnected from the Utility's storm conveyance system.

P. Waiver of Protest To Annexation

Petitioners for sewer main extensions and sewer service outside the City limits shall be required to execute a written agreement that the owner and his or her successors in title and assigns waive any rights to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by the City as a condition of receiving that sewer main extension and sewer service.

Q. Abandoned Building Sewers

All abandoned building sewers shall be cut off and sealed with concrete to prevent entrance of surface water and debris.

R. Other Basis For Extensions

None of the above rules and regulations shall prevent the Marion Utility Service Board

from extending water and sewer lines under a different policy so long as the public interest is thereby served.

GENERAL ORDINANCE NO. 43 - 2005

AN AMENDMENT TO THE ORDINANCE ESTABLISHING A SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM USERS AND OWNERS OF PROPERTY SERVED BY THE STORM WATER UTILITY, OF SAID CITY, ADDING PROCEDURES REGARDING ILLICIT DISCHARGES AND REGULATIONS OF OPERATION, OTHER MATTERS CONNECTED THEREWITH AND AMENDING ORDINANCES IN CONFLICT HEREWITH

WHEREAS, the City of Marion, Indiana (the "City") has heretofore constructed and has in operation a wastewater collection system and treatment plant for the purpose of collecting and treating sewage wastewater and conveying the same away from the premises where produced; and

WHEREAS, the City also collects and treats storm water through storm water and sanitary systems; and

WHEREAS; the City provides funding by the Storm Water Utility for the maintenance and operation of the storm water and sanitary systems; and

WHEREAS, the City has caused a financial study to be completed determining that storm water rates and charges needed to pay for the costs of collecting and treating such storm water; and

WHEREAS, the City intends to operate its municipal storm water utility under the provisions of IC 36-9-23, and the Common Council, under IC 36-9-23-3, hereby transfers to the Utility Service Board all powers and duties to supervise and control the storm water utility; and

WHEREAS, for purposes of setting rates and charges under IC 36-9-23-25, the Common Council of the City is authorized to consider the costs of collecting and treating storm water drainage as the definition of sewage works for purposes of such chapter includes the term storm sewers; and

WHEREAS, the financial study presented to and approved by the Utility Service Board of the City takes into account the impervious area of all properties within the City's limits and estimates the amount of storm water collected by the storm water utility owned and operated by the City; and

WHEREAS, the Utility Service Board has recommended that the rates and charges of the storm water utility be enacted to incorporate the recommendations and findings of the financial study presented to the Utility Service Board; and

WHEREAS, the Common Council has adopted such rates and charges under General Ordinance No. 27-1994; and

WHEREAS, Requirements for a Storm Water Management Plan have been promulgated

under Federal Regulations, 64 FR 68722 and Indiana Administrative Code, 327 IAC 15 – 13; and

WHEREAS, The Utility Service Board has developed Rules and Regulations for the operation of the Storm Water Utility;

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MARION, INDIANA:

Definitions

The following words and phrases shall have the meanings set forth in this section unless otherwise specifically noted in this Ordinance.

"Base unit" shall mean an amount which equates runoff from all properties to that of the average amount from a single-family residential property, presently set at 2,521 square feet.

"Best Management Practices (BMPs)" Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

"Board" The Marion Utilities Service Board.

"City" shall mean the City of Marion acting by and through the Council.

"Clean Water Act" The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

"Construction Activity" Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 5 acres or more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

"Council" shall mean the Common Council of the City of Marion, or any duly authorized officials acting on its behalf.

"Impervious area" shall mean the total hard surface are (asphalt, concrete, stone, etc.) that is contained on a lot or parcel, or within a development tract. Hard surface area shall include, but not be limited to, driveways, parking areas, sidewalks, other paved areas, and all areas under roof.

"Hazardous Materials" Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"Illegal Discharge" Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Part B, Section 5 of this Ordinance.

"Illicit Connections" An illicit connection is defined as either of the following:
Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Board or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Board.

"Industrial Activity" Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

"Municipal Separate Storm Sewer System" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:

(1) owned or operated by:

(a) The City of Marion

(b) Indiana Wesleyan University

(2) Designed or used for collecting or conveying storm water;

(3) Not a combined sewer; and

(4) Not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

"National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

"Non-Storm Water Discharge" Any discharge to the storm drain system that is not composed entirely of storm water.

"Person" Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

"Pollutant" Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

"Premises" Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

"Qualified Retention Facility" shall mean an artificial basin, designed and approved under the requirements of the Board, and operated to reduce peak discharge from an area by use of temporary storage. At the discretion of the Board, existing retention/detention facilities may be considered.

"Replacement Costs" shall mean the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of storm water collection facilities to maintain the capacity and performance for which such works were designed and contracted.

"Shall" is mandatory; "May" is permissive.

"Sewage Works" shall have the meaning as defined in IC 36-9-1-8.

"Storm Drainage System" Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

"Storm Water" Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

"Storm Water Pollution Prevention Plan" A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or

contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

"Storm Water Utility", Storm Water Works", Storm Water Facilities" or like terms where used in this Ordinance shall mean all constructed pipes, mains, facilities, structures and natural water courses under the control of the City used for collecting and conducting storm water through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: mains, pipes, lift stations, inlets, conduits and pertinent features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations; and excluding there from any part of the system of drains and water courses under the jurisdiction of the Grant County Drainage Board.

"User Class" shall mean the division of storm water properties between residential, non-residential, and users without direct or indirect stormwater discharges to the city system.

"User Fees" are dedicated charges paid by Users and are based on the estimated amount of water that leaves their property.

"Users" shall mean the owners or tenants of properties within the City limits containing impervious areas that add runoff or sewage to the storm water or sanitary systems.

Residential User Class – shall include

(i) a lot or parcel improved with a structure used primarily as a single family or two family residence, or

(ii) a lot or parcel improved with a structure used primarily for residential purposes having less than 5,000 square feet of impervious area, each of which discharge storm water, directly or indirectly, into the storm water or sanitary systems of the City.

Non-Residential User Class – shall include properties that do not meet the definition of Residential User Class and that discharge storm water, directly or indirectly, into the storm water or sanitary systems of the city.

Users Without Direct or Indirect Discharge Class – shall include all other properties that do not meet the definition of Residential or Nonresidential User Classes, are within City limits, and that do not discharge stormwater directly or indirectly into the stormwater or sanitary systems of the city. This user shall pay cost allocated for the operation and maintenance of the systems serving city streets and right-of-ways

"Wastewater" Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Severability

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

PART A

Rates and Charges

Section 1 User Class

Every User shall be charged for the services provided. These charges are established for each User Class, as defined, in order that the storm water utility shall recover, from each User and User Class, revenue which is proportional to its measurement of impervious area.

The various classes of Users of the storm water collection system for purposes of this Ordinance shall be as follows:

Class 1. Residential

Class 2. Non-Residential

Class 3. Users Without Direct or Indirect Discharge

Section 2 User Fees

For the use of and the service rendered by said storm water utility, User Fees shall be collected from the Users. Such User Fees shall be in an amount determinable as follows:

(a) User Fees:

Per Month

1. Residential Class	$5.00
2. Non-Residential Class	$5.00 x (number of Base Units, determined by the Impervious area)

3. User Without Direct/Indirect Discharge	$5.00 x (number of Base Units, determined by the Impervious area) x 0.23

(b) In any User Class where tenants reside in structures which provide multiple residences, the monthly bill for that structure shall be divided by the number of water meters serving that structure and paid by the tenant responsible for paying the water bill for that meter. The foregoing shall not apply if the owner of such structure pays the User Fees.

(c) For the service rendered to the City of Marion, said City shall be subject to the same User Fees herein above provided. Impervious area located within a public dedicated or public owned right-of-way shall not be subject to a User Fee.

Section 3 Base Units and Appeal Procedures

(a) The amount of impervious area subject to the User Fees shall be determined by the Board. The Board may make proper allowances in determining the Base Units allocable to a User and may round the total amount of impervious area to always result in Base Units expressed as a whole figure.

(b) Appeal Procedure: If, in the opinion of any User, the amount of Base Units attributable to such User is inaccurate, the User shall have the right to contest said calculation in the following manner.

(i) The User shall obtain and complete a petition to appeal the amount of Base Units, which shall be returned to the Director of Utilities with a copy of a survey or other verifiable documentation supporting the User's claim?

(ii) Upon review of the User's claim, the Director of Utilities shall render a written determination that either the original calculation should be affirmed or the User should be assigned a new figure of Base Units. The Director of Utilities' determination is subject to review by the Board.

(iii) If the User receives a new figure for Base Units which is lower than the original amount assigned to such User, the User shall be credited accordingly for any overpayment made from the date the original Base Unit calculation was implemented; provided, however, that such credit shall not exceed the overpayment for a period which extends beyond the immediately preceding twelve (12) calendar months. Said credit shall

apply to future service provided to the User until the overpayment has been fully satisfied. If the User's petition is denied, said opinion shall be forwarded to the User by certified mail, return receipt requested. The User shall then have seven (7) days from date of receipt to request reconsideration by the Board. The User shall submit a copy of the original petition and supporting documents to the Board and any additional facts concerning the dispute. The Director of Utilities shall submit a copy of the determination denying the User's claim, along with any supporting documents.

Thereafter, the Board shall designate a hearing officer who shall conduct, as soon as practicable, an informal hearing to determine and resolve the dispute based upon the documentation submitted and oral testimony of the User. The hearing officer shall render a written decision at the close of the hearing or within thirty (30) days thereafter. The determination by such hearing officer shall constitute the final administrative determination and shall be binding on both parties. The hearing shall be electronically recorded. A transcript of the hearing shall be provided at a cost of $1.00 per page.

(iv) A party or person aggrieved by the final administrative determination shall have the right to a judicial review of such determination in accordance with the provisions of the Indiana Administrative Adjudication Act.

(v) Dispute or appeal of the amount of Base Units attributable to a User shall not be a valid reason for non-payment of the User Fees.

Section 4 Billing Procedures

Such rates and charges shall be prepared, billed and collected by the City in the manner provided by law and ordinance.

(a) The User Fees for all Users shall be prepared and billed monthly.

(b) The User Fees may be billed to the tenant or tenants occupying the Properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the City for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.

(c) As is provided by statute, all rates and charges not paid when due are herby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates or charges shall thereupon attach thereto. The time at which such rates or charges shall be paid is now fixed at seventeen (17) days after the date of mailing of the bill.

Section 5 Credit for Qualified Retention Basin

For any User that has a Qualified Retention Facility on the property being charged pursuant to this Ordinance, such User is entitled to a credit to be determined by the Board. Procedures used to calculate the credit and the factor for determining the impact of increased runoff volume shall be prescribed and set by the Board.

Calculation of discharge from developed sites and storm water detention/retention basins, as well as storm water runoff volumes from developed and undeveloped sites shall use methodology which is in accordance with acceptable engineering practice. Peak discharge, hydrograph, flood routing, and runoff volume procedures used by the Soil Conservation Service, the Corps of Engineers, and the Bureau of Reclamation, among others, are considered acceptable.

Any credit given to a User shall reduce the amount of Base Units attributable to such User, but no credit may reduce the initial Base Units by more than fifty percent. Before such credit is granted, the User must establish that its facility meets the definition of a Qualified Retention Facility. In addition, such credits shall be subject to an annual review by the Board to determine continuing compliance with the provisions of this Ordinance.

Section 6 Depreciation Fund

A Depreciation Fund shall be continued for the purpose of meeting special or unforeseen emergencies in connection with the operation of the sewage works, or for the payment of the costs of constructing extensions, improvements, betterments or additions to the sewage works. A subaccount of said Depreciation Fund entitled "Capital Account" may only be used for the construction, remodeling, repair and extension of storm sewers; relief sewers and drains in aid of the sanitary system or storm water system; and the payment of the City's part of the costs of any public sewer or drainage project that lies partly or wholly within the City and aids or is connected to the sewage works system or storm water system of the City.

Section 7 Bond Reserve

In accordance with IC 36-9-23-25(b)(2) and IC 36-9-23-21, the Common Council has determined that a portion of the User Fees collected under the terms of this Ordinance may be used to establish a reserve for revenue bonds to be issued by the City.

PART B

Illicit Discharges and Connections

Section 1 Purpose

The purpose of this Part is to provide for the health, safety, and general welfare of the citizens of the City of Marion, Indiana through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Part establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives are:

A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
B. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance

Section 2 Applicability

This Part shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Board.

Section 3 Authorized Agent

The Board shall be the authorized agent for the city to insure that the provisions of this city code section are carried out.

Section 4 Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this Part are minimum standards; therefore this Part does not intend nor imply that compliance by any person will insure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Section 5 Discharge Prohibitions

(A) Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the municipal storm drain system any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this Ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated), fire fighting activities, and any other water source not containing pollutants.

(2) Discharges specified in writing by Indiana Department of Environmental Management as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the Board or its authorized agent prior to the time of the test.

(4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws

and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(B) Prohibition of Illicit Connections. No person shall construct, use, maintain or continue the existence of illicit connections to the storm drain system. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this Part if the person connects a line conveying wastewater to the MS4, or allows such a connection to continue.

Section 6 Industrial or Construction Activities Discharge

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Board prior to the allowing of discharges to the MS4.

Section 7 Monitoring of Discharges

(A) Applicability

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(B) Access to Facilities

(1) The Board or its authorized agent shall be permitted to enter and inspect facilities subject to regulation under this Ordinance as often as may be necessary to determine compliance with this Ordinance. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Board or its authorized agent.

(2) Facility operators shall allow the Board or its authorized agent the ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The Board or its authorized agent shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Board or its authorized agent to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Board or its authorized agent has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Board or its authorized agent shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the access to a permitted facility are a violation of this Ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Board or its authorized agent reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.

(7) If the Board or its authorized agent has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Board or its authorized agent may seek issuance of a search warrant from any court of competent jurisdiction.

Section 8 Requirement to Prevent, Control, and Reduce Storm Water Pollutants by Choice of Best Management Practices

The Board will adopt requirements identifying Best Management Practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of

prohibited materials or other wastes into the municipal storm drain system through the use of BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

Section 9 Notification of Spills

In addition to the requirements of 327 IAC 2-6.1, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the State of Indiana, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence. In the event of a release of non-hazardous materials, said person shall notify the Board or its authorized agent in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Board or its authorized agent in three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 10 Enforcement

(A) *Notification of violation.* If the Board finds that any discharger has engaged in conduct which justifies suspension of service, the Board shall serve the discharger with a written notice, either personally or by certified or registered U.S. mail, stating the nature of the alleged violation. Within ten days following receipt of the notice, the discharger shall respond personally or in writing to the Board, advising of its position concerning the allegations. Thereafter, the parties shall meet to

determine the seriousness of the allegations and, if necessary, establish a plan for the satisfactory correction of any violations.

(B) *Show cause hearing.* If a violation of this city code section or of applicable storm water management regulations occurs and is not corrected by timely compliance, the Board may order any discharger to show cause before them and state why the proposed suspension of service should not be taken. A written notice shall be served on the discharger by personal service, or by certified or registered U.S. mail, specifying the time and place of a hearing to be held by the Board. The hearing shall consider the violation, the proposed enforcement action, the reasons why the enforcement action should be taken, and directing the discharger to show cause before the Board as to why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of a discharger. The proceedings at the hearing shall be considered by the Board and appropriate orders with respect to the alleged improper activities of the discharger shall be issued.

(C) If a violation of this city code section or of applicable storm water management regulations occurs by other government entities, the Board shall serve the government entity with a written notice, either personally or by certified or registered U.S. mail, stating the nature of the alleged violation and shall direct the government entity to correct the violation.

(D) *Annual publication of violators.* A list of all dischargers which were found to be in significant noncompliance shall be published annually by the Board in the largest daily newspaper in the municipality in which the Board is located.

Section 11 Issuance of Cease and Desist Orders

When the Board or its authorized agent finds that a discharge has taken place, in violation of prohibitions or limitations of this code section, the Board may issue an order to cease and desist and direct that those persons not complying with those prohibitions, limits, requirements or provisions to:

(1) Comply forthwith;

(2) Comply in accordance with a time schedule set forth by the Board; or

(3) Take appropriate remedial or preventive action in the event of a threatened violation.

Section 12 Submission of Schedule

If the Board finds that a discharge has been taking place, in violation of prohibitions or limitations prescribed in this code section, or storm water pollution prevention requirements, or the provisions of a storm water discharge authorization, the Board may require the user to submit for approval, with those modifications it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements.

Section 13 Appeals

(A) Any user affected by any decision, action or determination, including cease and desist orders, made by the Board or its authorized agent, interpreting or implementing the provisions of this section or in any authorization issued herein, may file with the Board or its authorized agent a written request for reconsideration within ten days of the decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the Board is unsatisfactory to the person requesting reconsideration, he or she may, within ten days after notification of Board action, file a written appeal to the Board. The written appeal shall be heard by the Board within 30 days from the date of filing. The Board shall make a final ruling on the appeal within ten days after the close of the meeting. The Board's or its authorized agent's decision, action or determination shall remain in effect during that period of reconsideration.

ABATEMENT

Section 14 Public Nuisance

Discharges of pollutants in any manner in violation of this code section or of any order issued by the Board as authorized by this code section, is hereby declared a public nuisance and shall be corrected or abated as directed by the Board. Any person creating a public nuisance is guilty of an ordinance violation.

Section 15 Legal Action

If any person discharges sewage, industrial wastes or other wastes into a city's municipal separate storm sewer system (MS4) contrary to this code section, ordinance, federal or state pretreatment

requirements, or any order of the city, the city or Board Attorney may commence an action for appropriate legal relief, equitable relief or both in the applicable court.

Section 16 Damage to Facilities

When a discharge of wastes causes an obstruction, damage, or any other impairment to Board facilities, the Board may assess a charge against the user for the work required to clean or repair the facility, and add that charge to the user's charges and fees.

Section 17 Civil Criminal Penalties

(A) Any user which has violated a prohibition or continues to violate this Ordinance, or failed to meet a requirement of this Ordinance shall be liable to the Board for a minimum civil penalty of $1,000 per violation per day.

(B) The Board may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Board facilities.

(C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(D) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

Section 18 Falsifying Information

Any person who knowingly makes any false statement of representation, record, report, plan or other documents filed with the Board or who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required under this section shall be subject to the penalties set forth in Section 19 of this Part.

Section 19 Termination of Service

(A) Suspension due to Illicit Discharges in Emergency Situations. The Board may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Board may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State of Indiana, or to minimize danger to persons.

(B) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Board or its authorized agent will notify a violator of the proposed termination of its MS4 access. The violator may petition the Board for a reconsideration and hearing.

(C) A person commits an offense if the person reinstates an access to a MS4 terminated pursuant to this Section, without the prior approval of the Board.

PART C

Section 1 Rules and Regulations

The rules and regulations under which storm water systems shall be operated are incorporated by reference under this code section. Two (2) copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for inspection in accordance with Indiana Code 36-1-5. Another copy shall be filed for the convenience of the public in the general office of the Utility.

PART D

Section 1 Conflicting Ordinances

All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however,

that the existing schedule of storm water rates and charges shall remain in full force and effect until the schedule of rates and charges fixed by this Ordinance are changed by the Common Council of the City of Marion.

Section 2 Effective Date

This Ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 31st day of January, 2006.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 4 day of Jan., 2006.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 4th day of January, 2006

Mayor, City of Marion, Indiana

GENERAL ORDINANCE NO. 18 - 2005

AN AMENDMENT TO THE ORDINANCE ESTABLISHING A SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM USERS AND OWNERS OF PROPERTY SERVED BY THE STORM WATER UTILITY, OF SAID CITY, ADDING PROCEDURES REGARDING ILLICIT DISCHARGES AND REGULATIONS OF OPERATION, OTHER MATTERS CONNECTED THEREWITH AND AMENDING ORDINANCES IN CONFLICT HEREWITH

WHEREAS, the City of Marion, Indiana (the "City") has heretofore constructed and has in operation a wastewater collection system and treatment plant for the purpose of collecting and treating sewage wastewater and conveying the same away from the premises where produced; and

WHEREAS, the City also collects and treats storm water through storm water and sanitary systems; and

WHEREAS; the City provides funding by the Storm Water Utility for the maintenance and operation of the storm water and sanitary systems; and

WHEREAS, the City has caused a financial study to be completed determining that storm water rates and charges needed to pay for the costs of collecting and treating such storm water; and

WHEREAS, the City intends to operate its municipal storm water utility under the provisions of IC 36-9-23, and the Common Council, under IC 36-9-23-3, hereby transfers to the Utility Service Board all powers and duties to supervise and control the storm water utility; and

WHEREAS, for purposes of setting rates and charges under IC 36-9-23-25, the Common Council of the City is authorized to consider the costs of collecting and treating storm water drainage as the definition of sewage works for purposes of such chapter includes the term storm sewers; and

WHEREAS, the financial study presented to and approved by the Utility Service Board of the City takes into account the impervious area of all properties within the City's limits and estimates the amount of storm water collected by the storm water utility owned and operated by the City; and

WHEREAS, the Utility Service Board has recommended that the rates and charges of the storm water utility be enacted to incorporate the recommendations and findings of the financial study presented to the Utility Service Board; and

WHEREAS, the Common Council has adopted such rates and charges under General Ordinance No. 27-1994; and

WHEREAS, Requirements for a Storm Water Management Plan have been promulgated

under Federal Regulations, 64 FR 68722 and Indiana Administrative Code, 327 IAC 15 – 13; and

WHEREAS, The Utility Service Board has developed Rules and Regulations for the operation of the Storm Water Utility;

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MARION, INDIANA:

Definitions

The following words and phrases shall have the meanings set forth in this section unless otherwise specifically noted in this Ordinance.

"Base unit" shall mean an amount which equates runoff from all properties to that of the average amount from a single-family residential property, presently set at 2,521 square feet.

"Best Management Practices (BMPs)" Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

"Board" The Marion Utilities Service Board.

"City" shall mean the City of Marion acting by and through the Council.

"Clean Water Act" The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

"Construction Activity" Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 5 acres or more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

"Council" shall mean the Common Council of the City of Marion, or any duly authorized officials acting on its behalf.

"Impervious area" shall mean the total hard surface are (asphalt, concrete, stone, etc.) that is contained on a lot or parcel, or within a development tract. Hard surface area shall include, but not be limited to, driveways, parking areas, sidewalks, other paved areas, and all areas under roof.

"Hazardous Materials" Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"Illegal Discharge" Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Part B, Section 5 of this Ordinance.

"Illicit Connections" An illicit connection is defined as either of the following:
Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Board or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Board.

"Industrial Activity" Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

"Municipal Separate Storm Sewer System" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:

(1) owned or operated by:
    (a) The City of Marion
    (b) Indiana Wesleyan University
(2) Designed or used for collecting or conveying storm water;
(3) Not a combined sewer; and
(4) Not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

"National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

"Non-Storm Water Discharge" Any discharge to the storm drain system that is not composed entirely of storm water.

"Person" Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

"Pollutant" Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

"Premises" Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

"Qualified Retention Facility" shall mean an artificial basin, designed and approved under the requirements of the Board, and operated to reduce peak discharge from an area by use of temporary storage. At the discretion of the Board, existing retention/detention facilities may be considered.

"Replacement Costs" shall mean the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of storm water collection facilities to maintain the capacity and performance for which such works were designed and contracted.

"Shall" is mandatory; "May" is permissive.

"Sewage Works" shall have the meaning as defined in IC 36-9-1-8.

"Storm Drainage System" Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

"Storm Water" Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

"Storm Water Pollution Prevention Plan" A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or

contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

"Storm Water Utility", Storm Water Works", Storm Water Facilities" or like terms where used in this Ordinance shall mean all constructed pipes, mains, facilities, structures and natural water courses under the control of the City used for collecting and conducting storm water through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: mains, pipes, lift stations, inlets, conduits and pertinent features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations; and excluding there from any part of the system of drains and water courses under the jurisdiction of the Grant County Drainage Board.

"User Class" shall mean the division of storm water properties between residential and non-residential.

"User Fees" are dedicated charges paid by Users and are based on the estimated amount of water that leaves their property.

"Users" shall mean the owners or tenants of properties within the City limits containing impervious areas that add runoff or sewage to the storm water or sanitary systems.

Residential User Class – shall include

(i) a lot or parcel improved with a structure used primarily as a single family or two family residence, or

(ii) a lot or parcel improved with a structure used primarily for residential purposes having less than 5,000 square feet of impervious area, each of which discharge storm water, directly or indirectly, into the storm water or sanitary systems of the City.

Non-Residential User Class – shall include all other properties that do not meet the definition of Residential User Class and that discharge storm water, directly or indirectly, into the storm water or sanitary systems of the city.

"Wastewater" Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Severability

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or

circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

PART A

Rates and Charges

Section 1 User Class

Every User shall be charged for the services provided. These charges are established for each User Class, as defined, in order that the storm water utility shall recover, from each User and User Class, revenue which is proportional to its measurement of impervious area.

The various classes of Users of the storm water collection system for purposes of this Ordinance shall be as follows:

Class 1. Residential

Class 2. Non-Residential

Section 2 User Fees

For the use of and the service rendered by said storm water utility, User Fees shall be collected from the Users. Such User Fees shall be in an amount determinable as follows:

(a) User Fees:

Per Month

1.	Residential Class	$5.00
2.	Non-Residential Class	$5.00 x the number of Base Units, determined by the Impervious area of the User

(b) In either User Class where tenants reside in structures which provide multiple that structure residences, the monthly bill for that structure shall be divided by the number of water meters serving and paid by the tenant responsible for paying the water bill for that meter. The foregoing shall not apply if the owner of such structure pays the User Fees.

(c) For the service rendered to the City of Marion, said City shall be subject to the same User Fees herein above provided. Impervious area located within a public dedicated or public owned right-of-way shall not be subject to a User Fee.

Section 3 Base Units and Appeal Procedures

(a) The amount of impervious area subject to the User Fees shall be determined by the Board. The Board may make proper allowances in determining the Base Units allocable to a User and may round the total amount of impervious area to always result in Base Units expressed as a whole figure.

(b) Appeal Procedure: If, in the opinion of any User, the amount of Base Units attributable to such User is inaccurate, the User shall have the right to contest said calculation in the following manner.

(i) The User shall obtain and complete a petition to appeal the amount of Base Units, which shall be returned to the Director of Utilities with a copy of a survey or other verifiable documentation supporting the User's claim?

(ii) Upon review of the User's claim, the Director of Utilities shall render a written determination that either the original calculation should be affirmed or the User should be assigned a new figure of Base Units. The Director of Utilities' determination is subject to review by the Board.

(iii) If the User receives a new figure for Base Units which is lower than the original amount assigned to such User, the User shall be credited accordingly for any overpayment made from the date the original Base Unit calculation was implemented; provided, however, that such credit shall not exceed the overpayment for a period which extends beyond the immediately preceding twelve (12) calendar months. Said credit shall apply to future service provided to the User until the overpayment has been fully satisfied. If the User's petition is denied, said opinion shall be forwarded to the User by certified mail, return receipt requested. The User shall then have seven (7) days from date of receipt to request reconsideration by the Board. The User shall submit a copy of the original petition and supporting documents to the Board and any additional facts concerning the dispute. The Director of Utilities shall submit a copy of the determination denying the User's claim, along with any supporting documents.

Thereafter, the Board shall designate a hearing officer who shall conduct, as soon as practicable, an informal hearing to determine and resolve the dispute based upon the documentation submitted and oral testimony of the User. The hearing officer shall render a

written decision at the close of the hearing or within thirty (30) days thereafter. The determination by such hearing officer shall constitute the final administrative determination and shall be binding on both parties. The hearing shall be electronically recorded. A transcript of the hearing shall be provided at a cost of $1.00 per page.

(iv) A party or person aggrieved by the final administrative determination shall have the right to a judicial review of such determination in accordance with the provisions of the Indiana Administrative Adjudication Act.

(v) Dispute or appeal of the amount of Base Units attributable to a User shall not be a valid reason for non-payment of the User Fees.

Section 4 Billing Procedures

Such rates and charges shall be prepared, billed and collected by the City in the manner provided by law and ordinance.

(a) The User Fees for all Users shall be prepared and billed monthly.

(b) The User Fees may be billed to the tenant or tenants occupying the Properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the City for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.

(c) As is provided by statute, all rates and charges not paid when due are herby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates or charges shall thereupon attach thereto. The time at which such rates or charges shall be paid is now fixed at seventeen (17) days after the date of mailing of the bill.

Section 5 Credit for Qualified Retention Basin

For any User that has a Qualified Retention Facility on the property being charged pursuant to this Ordinance, such User is entitled to a credit to be determined by the Board. Procedures used to calculate the credit and the factor for determining the impact of increased runoff volume shall be prescribed and set by the Board.

Calculation of discharge from developed sites and storm water detention/retention basins, as well as storm water runoff volumes from developed and undeveloped sites shall use methodology which is in accordance with acceptable engineering practice. Peak discharge, hydrograph, flood routing, and runoff volume procedures used by the Soil Conservation Service, the Corps of Engineers, and the Bureau of Reclamation, among others, are considered acceptable.

Any credit given to a User shall reduce the amount of Base Units attributable to such User, but no credit may reduce the initial Base Units by more than fifty percent. Before such credit is granted, the User must establish that its facility meets the definition of a Qualified Retention Facility. In addition, such credits shall be subject to an annual review by the Board to determine continuing compliance with the provisions of this Ordinance.

Section 6 Depreciation Fund

A Depreciation Fund shall be continued for the purpose of meeting special or unforeseen emergencies in connection with the operation of the sewage works, or for the payment of the costs of constructing extensions, improvements, betterments or additions to the sewage works. A subaccount of said Depreciation Fund entitled "Capital Account" may only be used for the construction, remodeling, repair and extension of storm sewers; relief sewers and drains in aid of the sanitary system or storm water system; and the payment of the City's part of the costs of any public sewer or drainage project that lies partly or wholly within the City and aids or is connected to the sewage works system or storm water system of the City.

Section 7 Bond Reserve

In accordance with IC 36-9-23-25(b)(2) and IC 36-9-23-21, the Common Council has determined that a portion of the User Fees collected under the terms of this Ordinance may be used to establish a reserve for revenue bonds to be issued by the City.

PART B

Illicit Discharges and Connections

Section 1 Purpose

The purpose of this Part is to provide for the health, safety, and general welfare of the citizens of the City of Marion, Indiana through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Part establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives are:

A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
B. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Ordinance

Section 2 Applicability

This Part shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Board.

Section 3 Authorized Agent

The Board shall be the authorized agent for the city to insure that the provisions of this city code section are carried out.

Section 4 Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this Part are minimum standards; therefore this Part does not intend nor imply that compliance by any person will insure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Section 5 Discharge Prohibitions

(A) Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the municipal storm drain system any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this Ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated), fire fighting activities, and any other water source not containing pollutants.

(2) Discharges specified in writing by Indiana Department of Environmental Management as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the Board or its authorized agent prior to the time of the test.

(4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(B) Prohibition of Illicit Connections. No person shall construct, use, maintain or continue the existence of illicit connections to the storm drain system. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this Part if the person connects a line conveying wastewater to the MS4, or allows such a connection to continue.

Section 6 Industrial or Construction Activities Discharge

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Board prior to the allowing of discharges to the MS4.

Section 7 Monitoring of Discharges

(A) Applicability

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(B) Access to Facilities

(1) The Board or its authorized agent shall be permitted to enter and inspect facilities subject to regulation under this Ordinance as often as may be necessary to determine compliance with this Ordinance. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Board or its authorized agent.

(2) Facility operators shall allow the Board or its authorized agent the ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The Board or its authorized agent shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Board or its authorized agent to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Board or its authorized agent has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral

request of the Board or its authorized agent shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the access to a permitted facility are a violation of this Ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Board or its authorized agent reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Ordinance.

(7) If the Board or its authorized agent has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Board or its authorized agent may seek issuance of a search warrant from any court of competent jurisdiction.

Section 8 Requirement to Prevent, Control, and Reduce Storm Water Pollutants by Choice of Best Management Practices

The Board will adopt requirements identifying Best Management Practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system through the use of BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

Section 9 Notification of Spills

In addition to the requirements of 327 IAC 2-6.1, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the State of Indiana, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence. In the event of a release of non-hazardous materials, said person shall notify the Board or its authorized agent in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Board or its authorized agent in three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 10 Enforcement

(A) *Notification of violation.* If the Board finds that any discharger has engaged in conduct which justifies suspension of service, the Board shall serve the discharger with a written notice, either personally or by certified or registered U.S. mail, stating the nature of the alleged violation. Within ten days following receipt of the notice, the discharger shall respond personally or in writing to the Board, advising of its position concerning the allegations. Thereafter, the parties shall meet to determine the seriousness of the allegations and, if necessary, establish a plan for the satisfactory correction of any violations.

(B) *Show cause hearing.* If a violation of this city code section or of applicable storm water management regulations occurs and is not corrected by timely compliance, the Board may order any discharger to show cause before them and state why the proposed suspension of service should not be taken. A written notice shall be served on the discharger by personal service, or by certified or registered U.S. mail, specifying the time and place of a hearing to be held by the Board. The hearing shall consider the violation, the proposed enforcement action, the reasons why the enforcement action should be taken, and directing the discharger to show cause before the Board as to why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less

than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of a discharger. The proceedings at the hearing shall be considered by the Board and appropriate orders with respect to the alleged improper activities of the discharger shall be issued.

(C) If a violation of this city code section or of applicable storm water management regulations occurs by other government entities, the Board shall serve the government entity with a written notice, either personally or by certified or registered U.S. mail, stating the nature of the alleged violation and shall direct the government entity to correct the violation.

(D) *Annual publication of violators.* A list of all dischargers which were found to be in significant noncompliance shall be published annually by the Board in the largest daily newspaper in the municipality in which the Board is located.

Section 11 Issuance of Cease and Desist Orders

When the Board or its authorized agent finds that a discharge has taken place, in violation of prohibitions or limitations of this code section, the Board may issue an order to cease and desist and direct that those persons not complying with those prohibitions, limits, requirements or provisions to:

(1) Comply forthwith;

(2) Comply in accordance with a time schedule set forth by the Board; or

(3) Take appropriate remedial or preventive action in the event of a threatened violation.

Section 12 Submission of Schedule

If the Board finds that a discharge has been taking place, in violation of prohibitions or limitations prescribed in this code section, or storm water pollution prevention requirements, or the provisions of a storm water discharge authorization, the Board may require the user to submit for approval, with those modifications it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements.

Section 13 Appeals

(A) Any user affected by any decision, action or determination, including cease and desist orders, made by the Board or its authorized agent, interpreting or implementing the provisions of this section or in any authorization issued herein, may file with the Board or its authorized agent a written

request for reconsideration within ten days of the decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the Board is unsatisfactory to the person requesting reconsideration, he or she may, within ten days after notification of Board action, file a written appeal to the Board. The written appeal shall be heard by the Board within 30 days from the date of filing. The Board shall make a final ruling on the appeal within ten days after the close of the meeting. The Board's or its authorized agent's decision, action or determination shall remain in effect during that period of reconsideration.

ABATEMENT

Section 14 Public Nuisance

Discharges of pollutants in any manner in violation of this code section or of any order issued by the Board as authorized by this code section, is hereby declared a public nuisance and shall be corrected or abated as directed by the Board. Any person creating a public nuisance is guilty of an ordinance violation.

Section 15 Legal Action

If any person discharges sewage, industrial wastes or other wastes into a city's municipal separate storm sewer system (MS4) contrary to this code section, ordinance, federal or state pretreatment requirements, or any order of the city, the city or Board Attorney may commence an action for appropriate legal relief, equitable relief or both in the applicable court.

Section 16 Damage to Facilities

When a discharge of wastes causes an obstruction, damage, or any other impairment to Board facilities, the Board may assess a charge against the user for the work required to clean or repair the facility, and add that charge to the user's charges and fees.

Section 17 Civil Criminal Penalties

(A) Any user which has violated a prohibition or continues to violate this Ordinance, or failed to

meet a requirement of this Ordinance shall be liable to the Board for a minimum civil penalty of $1,000 per violation per day.

(B) The Board may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Board facilities.

(C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(D) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

Section 18 Falsifying Information

Any person who knowingly makes any false statement of representation, record, report, plan or other documents filed with the Board or who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required under this section shall be subject to the penalties set forth in Section 19 of this Part.

Section 19 Termination of Service

(A) Suspension due to Illicit Discharges in Emergency Situations. The Board may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Board may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State of Indiana, or to minimize danger to persons.

(B) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this Ordinance may have their MS4 access terminated if such termination would abate or

reduce an illicit discharge. The Board or its authorized agent will notify a violator of the proposed termination of its MS4 access. The violator may petition the Board for a reconsideration and hearing.

(C) A person commits an offense if the person reinstates an access to a MS4 terminated pursuant to this Section, without the prior approval of the Board.

PART C

Section 1 Rules and Regulations

The rules and regulations under which storm water systems shall be operated are incorporated by reference under this code section. Two (2) copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for inspection in accordance with Indiana Code 36-1-5. Another copy shall be filed for the convenience of the public in the general office of the Utility.

PART D

Section 1 Conflicting Ordinances

All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that the existing schedule of storm water rates and charges shall remain in full force and effect until the schedule of rates and charges fixed by this Ordinance are changed by the Common Council of the City of Marion.

Section 2 Effective Date

This Ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 21 day of June, 2004.

Presiding Officer

ATTEST:

City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 22 day of June, 2004.

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 23rd day of June, 2004.

Mayor, City of Marion, Indiana

General Ord # 27-1994

ORDINANCE NO. 27-1994

AN ORDINANCE FIXING A NEW SCHEDULE OF RATES AND CHARGES TO BE COLLECTED BY THE CITY OF MARION, INDIANA, FROM USERS AND OWNERS OF PROPERTY SERVED BY THE STORM WATER UTILITY OF SAID CITY, OTHER MATTERS CONNECTED THEREWITH AND AMENDING ORDINANCES IN CONFLICT HEREWITH

WHEREAS, the City of Marion, Indiana (the "City") has heretofore constructed and has in operation a wastewater collection system and treatment plant for the purpose of collecting and treating sewage wastewater and conveying the same away from the premises where produced; and

WHEREAS, the City also collects and treats storm water and the costs of collecting and treating storm water are not presently being paid; and

WHEREAS, the City has caused a financial study to be completed determining that storm water rates and charges need to be enacted to pay for the costs of collecting and treating such storm water; and

WHEREAS, the City intends to operate its municipal storm water utility under the provisions of IC 36-9-23, and the Common Council, under IC 36-9-23-3, hereby transfers to the Utility Service Board all powers and duties to supervise and control the storm water utility; and

WHEREAS, for purposes of setting rates and charges under IC 36-9-23-25, the Common Council of the City is authorized to consider the costs of collecting and treating storm water drainage as the definition of sewage works for purposes of such chapter includes the term storm sewers; and

WHEREAS, the financial study presented to and approved by the Utility Service Board of the City takes into account the impervious area of all properties within the City's limits and

estimates the amount of storm water collected by the storm water utility owned and operated by the City; and

WHEREAS, the Utility Service Board has recommended that the rates and charges of the storm water utility be enacted to incorporate the recommendations and findings of the financial study presented to the Utility Service Board; and

WHEREAS, the Utility Service Board has recommended that the Common Council adopt such rates and charges and the Common Council finds that due notice and the appropriate public hearing have been given and conducted in accordance with IC 36-9-23;

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MARION, INDIANA:

Section 1. Definitions: the following words and phrases shall have the meanings set forth in this section unless otherwise specifically noted in this ordinance.

"Base unit" shall mean an amount which equates runoff from all properties to that of the average amount from a single-family residential property, presently set at 2,521 square feet.

"City" shall mean the City of Marion acting by and through the Council.

"Council" shall mean the Common Council of the City of Marion, or any duly authorized officials acting on its behalf.

"Impervious area" shall mean the total hard surface area (asphalt, concrete, stone, etc.) that is contained on a lot or parcel, or within a development tract. Hard surface area shall include, but not be limited to, driveways, parking areas, sidewalks, other paved areas, and all areas under roof.

"Qualified Retention Facility" shall mean an artificial basin, designed and approved under the requirements of the Utility Service Board, and operated to reduce peak discharge from an area by use of temporary storage. At the discretion of the Utility Service Board, existing retention/detention facilities may be considered.

"Replacement costs" shall mean the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of storm water collection facilities to maintain the capacity and performance for which such works were designed and constructed.

"Shall" is mandatory; "May" is permissive.

"Sewage works" shall have the meaning as defined in IC 36-9-1-8.

"Storm water utility", "Storm water works", "Storm water facilities" or like terms where used in this ordinance shall mean all constructed pipes, mains, facilities, structures and natural water courses under the control of the City used for collecting and conducting storm water through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: mains, pipes, lift stations, inlets, conduits and pertinent features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations; and excluding therefrom any part of the system of drains and water courses under the jurisdiction of the Grant County Drainage Board.

"User Class" shall mean the division of storm water properties between residential and non-residential .

"User Fees" are dedicated charges paid by Users and are based on the estimated amount of water that leaves their property.

"Users" shall mean the owners or tenants of properties within the City limits containing impervious areas that add runoff or sewage to the storm water system.

Residential User Class - shall include (i) a lot or parcel improved with a structure used primarily as a single family or two family residence, or (ii) a lot or parcel improved with a structure used primarily for residential purposes having less than 5,000 square feet of impervious area, each of which discharge storm water, directly or indirectly, into the storm water system of the City.

Non-Residential User Class - shall include all other properties that do not meet the definition of Residential User Class and that discharge storm water, directly or indirectly, into the storm water system of the City.

Section 2. Every User shall be charged for the services provided. These charges are established for each User Class, as defined, in order that the storm water utility shall recover, from each User and User Class, revenue which is proportional to its measurement of impervious area.

The various classes of Users of the storm water collection system for purposes of this ordinance shall be as follows:

Class 1. Residential
Class 2. Non-Residential

Section 3. For the use of and the service rendered by said storm water utility, User Fees shall be collected from the Users. Such User Fees shall be in an amount determinable as follows:

(a) User Fees:

		Per Month
1.	Residential Class	$5.00
2.	Non-Residential Class	$5.00 x the number of Base Units, determined by the impervious area of the User

(b) In either User Class where tenants reside in structures which provide multiple residences, the monthly bill for that structure shall be divided by the number of water meters serving that structure and paid by the tenant responsible for paying the water bill for that meter. The foregoing shall not apply if the owner of such structure pays the User Fees.

(c) For the service rendered to the City of Marion, said City shall be subject to the same User Fees herein above provided. Impervious area located within a public dedicated or public owned right-of-way shall not be subject to a User Fee.

Section 4. (a) The amount of impervious area subject to the User Fees shall be determined by the Utility Service Board. The Utility Service Board may make proper allowances in determining the Base Units allocable to a User and may round the total amount of impervious area to always result in Base Units expressed as a whole figure.

(b) Appeal Procedure: If, in the opinion of any User, the amount of Base Units attributable to such User is inaccurate, the User shall have the right to contest said calculation in the following manner.

(i) The User shall obtain and complete a petition to appeal the amount of Base Units, which shall be returned to the Director of Utilities with a copy of a survey or other verifiable documentation supporting the User's claim.

(ii) Upon review of the User's claim, the Director of Utilities shall render a written determination that either the original calculation should be affirmed or the User should be assigned a new figure of Base Units. The Director of Utilities' determination is subject to review by the Utility Service Board.

(iii) If the User receives a new figure for Base Units which is lower than the original amount assigned to such User, the User shall be credited accordingly for any overpayment made from the date the original Base Unit calculation was implemented; provided, however, that such credit shall not exceed the overpayment for a period which extends beyond the immediately preceding twelve (12) calendar months. Said credit shall apply to future service provided to the User until the overpayment has been fully satisfied. If the User's petition is denied, said opinion shall be forwarded to the User by certified mail, return receipt requested. The User shall then have seven (7) days from date of receipt to request a reconsideration by the Utility Service Board. The User shall submit a copy of the original petition and supporting documents to the Utility Service Board and any additional facts concerning the dispute. The Director of Utilities shall submit a copy of the determination denying the User's claim, along with any supporting documents.

Thereafter, the Utility Service Board shall designate a hearing officer who shall conduct, as soon as practicable, an informal hearing to determine and resolve the dispute based upon the documentation submitted and oral testimony of the User. The hearing officer shall render a written decision at the close of the hearing or within thirty (30) days thereafter. The determination by such hearing officer shall constitute the final

administrative determination and shall be binding on both parties. The hearing shall be electronically recorded. A transcript of the hearing shall be provided at a cost of $1.00 per page.

(iv) A party or person aggrieved by the final administrative determination shall have the right to a judicial review of such determination in accordance with the provisions of the Indiana Administrative Adjudication Act.

(v) Dispute or appeal of the amount of Base Units attributable to a User shall not be a valid reason for non-payment of the User Fees.

Section 5. Such rates and charges shall be prepared, billed and collected by the City in the manner provided by law and ordinance.

(a) The User Fees for all Users shall be prepared and billed monthly.

(b) The User Fees may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the City for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.

(c) As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates or charges shall thereupon attach thereto. The time at which such rates or charges shall be paid is now fixed at seventeen (17) days after the date of mailing of the bill.

Section 6. For any User that has a Qualified Retention Facility on the property being charged pursuant to this ordinance, such User is entitled to a credit to be determined by the Utility Service Board. Procedures used to calculate the credit and the factor for determining the impact of increased runoff volume shall be prescribed and set by the Utility Service Board.

Calculation of discharge from developed sites and stormwater detention/retention basins, as well as stormwater runoff volumes from developed and undeveloped sites shall use methodology which is in accordance with acceptable engineering practice. Peak discharge, hydrograph, flood routing, and runoff volume procedures used by the Soil Conservation Service, the Corps of Engineers, and the Bureau of Reclamation, among others, are considered acceptable. Any credit given to a User shall reduce the amount of Base Units attributable to such User, but no credit may reduce the initial Base Units by more than fifty percent.

Before such credit is granted, the User must establish that its facility meets the definition of a Qualified Retention Facility. In addition, such credits shall be subject to an annual review by the Utility Service Board to determine continuing compliance with the provisions of this ordinance.

Section 7. Pursuant to General Ordinance No. 7-1993, the City continued its Depreciation Fund for the purpose of meeting special or unforeseen emergencies in connection with the operation of the sewage works, or for the payment of the costs of constructing extensions, improvements, betterments or additions to the sewage works. There is hereby created a subaccount of said Depreciation Fund which, so long as the Sewage Works Revenue Bonds of 1993 are outstanding, shall only be funded after the required balance is accumulated in said Depreciation Fund. The subaccount of the Depreciation Fund shall be entitled "Capital

Account". Said subaccount may only be used for the construction, remodeling, repair and extension of storm sewers; relief sewers and drains in aid of the sanitary system or storm water system; and the payment of the City's part of the costs of any public sewer or drainage project that lies partly or wholly within the City and aids or is connected to the sewage works system or storm water system of the City, provided, however, that any moneys in said subaccount shall be transferred to the Sinking Fund in order to prevent a default upon the payment of any outstanding bonds of the sewage works.

Section 8. In accordance with IC 36-9-23-25(b)(2) and IC 36-9-23-21, the Common Council has determined that a portion of the User Fees collected under the terms of this ordinance may be used to establish a reserve for revenue bonds to be issued by the City within the next five years. Revenues may only be set aside for such purpose if all requirements of General Ordinance No. 7-1993 have been met.

Section 9. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

Section 10. The User Fees as herein set forth shall become effective on the first full billing period occurring after the adoption of this ordinance and approval of this ordinance by the Mayor.

Passed and adopted by the Common Council of the City of Marion, Indiana, this 15th day of November, 1994.

Ann K. Leitta
Presiding Offer

Attest:

Kathleen Riley by Carolyn Bryant
Clerk First Deputy

Presented by me to the Mayor of the City of Marion this 16th day of November, 1994 at 8:00 A.m.

Kathleen Riley by Carolyn Bryant
Clerk First Deputy

Signed and approved by me, the Mayor of the City of Marion, this 16th day of Nov., 1994 at 9:20 A.m.

Mayor

This page contains clickable links.

TITLE V: PUBLIC WORKS

CHAPTER 50: WASTE DISPOSAL

CHAPTER 50: WASTE DISPOSAL

Section

50.01 Definitions
50.02 Utility Service Board
50.03 Residential waste procedures
50.04 Yard waste procedures
50.05 Recyclables procedures
50.06 Bulky waste procedures
50.07 Miscellaneous waste procedures
50.08 Collection procedures
50.09 Costs of collection
50.10 Exclusions

50.98 Violations

§ 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BULKY WASTE. Large furniture or waste material (excluding burn barrels, construction and demolition debris, hazardous and Freon materials, and electronics, including, but not limited to, televisions) which is generated by or emanates from a dwelling unit and which has a weight or volume greater than that allowed for in the residential waste receptacles. The weight limit for bulky waste items is 1,000 pounds.

COLLECTION. The pickup, removal, and transporting by the utility of recyclables, residential, or bulky waste to a site or sites designated by the utility.

CURBSIDE LOCATION. A site that is within the boundaries of a dwelling unit and is adjacent to the front yard property line that abuts a public street, road, or thoroughfare.

DWELLING UNIT. Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation for not more than one family, or congregate residence for 16 or fewer persons. For buildings containing four or fewer separate or contiguous single family residences, each separate residence shall be considered a dwelling unit.

GARBAGE. Putrescihle animal and vegetable waste (excluding human or animal body waste and excreta) resulting from the handling, preparation, cooking, and consumption of food.

PUTRESCIBLE SUBSTANCES. Matter and material which are subject to organic decomposition.

RECYCLABLES. Examples: Non-inclusive and may be further defined and determined by the Utility Service Board.

(1) Paper: Newspapers, magazines, envelopes, junk mail, phone books, and brochures;

(2) Cardboard: Ream wrappers, file folders, poster board, corrugated cardboard boxes, and milk cartons (excluding soiled materials such as pizza boxes);

(3) Plastic. Water bottles, milk jugs, soda bottles, detergent and bleach bottles, and bagged film plastics;

(4) Metal: Aluminum beverage cans, tin food cans, light scrap metal;

(5) Glass: Green, brown, or clear glass bottles and jars (excluding window glass, Pyrex, or light bulbs);

(6) Examples of excluded items: Aerosol cans, aluminum foil, batteries, food waste, glass, mirrors or ceramics, stickers and address labels, Styrofoam, tissue, paper towels or napkins, plastic coated paper, wrapping paper, waxed paper, window glass, light bulbs, cookware, hardcover books, polystyrene foam plastic, and plastic bags.

RECYCLING. A voluntary process by which materials that would otherwise become solid waste are collected, separated, or processed and converted into materials or products for reuse or sale.

RECYCLING RECEPTACLE. An approved container of any description issued or authorized by the utility.

REFUSE. Discarded waste in a solid or semi-solid state consisting of combustible and noncombustible materials but excluding yard, bulky, hazardous or infectious waste, TVs, and tires.

RESIDENTIAL WASTE. Garbage and refuse which is generated by, or emanates from, a dwelling unit and shall be interpreted to be consistent with that definition as set out in I.C. 13-11-2-133 with the restriction that yard waste, bulky waste, construction materials, and wastes from all industrial, office, commercial, and institutional establishments are specifically excluded hereunder.

RESIDENTIAL WASTE RECEPTACLE. The receptacle that is provided and owned by the utility. The Board may also approve, in its sole discretion, use of an alternative container upon the request of a customer. Upon approval, the customer will be provided with an authorization label that must be affixed to the alternative container. If the customer uses an alternative container (i.e. not the receptacle provided by the utility), the utility will not be responsible for any damages to the container. A single receptacle, when filled, shall not weigh more than 180 pounds.

UTILITY. The Solid Waste Utility established by the Common Council of the City of Marion that is governed by the Marion Utility Service Board.

UTILITY SANITATION LABEL. A decal, tag, or adhesive sticker distributed solely by the utility which bears an identification mark established by the utility.

UTILITY SERVICE BOARD. The Utility Service Board ("Board") representing the City of Marion ("city"), supervises, controls, and is responsible for the day to day operations of the utility.

YARD WASTE. Grass, weeds, leaves, brush, tree trimmings, hedge and shrubbery clippings, tree limbs, and other organic materials arising from the care of residential lawns, yards, and gardens.

(Ord. 8-2016, passed 5-12-2016)

§ 50.02 UTILITY SERVICE BOARD.

(A) The Utility Service Board shall promulgate such rules and regulations as may be necessary to effectuate the operation and intent of this chapter.

(B) The Utility Service Board shall promulgate such rules and regulations as may be necessary to effectuate the operation and intent of the powers and duties mandated by the State of Indiana.

(C) The Utility Service Board shall have the power and authority to purchase such equipment and employ such personnel as may be necessary to carry out the provisions and intent of this chapter.

(D) The Utility Service Board shall have the power and authority to lease, rent, build, or contract for the necessary land and facilities to effectuate the operation and intent of this chapter.
(Ord. 8-2016, passed 5-12-2016)

§ 50.03 RESIDENTIAL WASTE PROCEDURES.

(A) *Garbage.* All garbage shall be wrapped and drained of all liquids as may be reasonable, before being placed in a residential waste receptacle for collection.

(B) *Refuse.* All refuse shall be drained of liquid before being deposited in a residential waste receptacle. All broken glass shall be wrapped.

(C) *Residential waste receptacle.*

(1) A residential waste receptacle shall be provided (and owned) by the utility. The owner, tenant, or occupant of a dwelling unit may purchase additional receptacles as required to contain solid waste volumes generated at their location. The receptacle must be approved by the utility. The utility will not be responsible for damages to the customer's receptacle and all receptacles shall be maintained in good, safe, and sanitary condition.

(2) Any container or receptacle that does not conform to the provisions of this chapter shall be promptly replaced by the owner or occupant upon notice from utility. The utility shall serve notice by tagging the container.

(3) Residential waste shall be properly bagged prior to placement in the receptacle. Residential waste scattered by animals or weather shall be removed promptly by the owner or occupant of the dwelling unit. The owner or occupant of the dwelling unit shall promptly remove scattered or strewn waste resulting from broken, damaged, or overturned receptacles.
(Ord. 8-2016, passed 5-12-2016)

§ 50.04 YARD WASTE PROCEDURES.

(A) All yard waste shall be separated from residential waste and shall not be placed in a residential waste receptacle.

(B) The utility will not accept or dispose of yard waste. For information regarding the collection or disposal of yard waste, the owner, tenant, or occupant of a residential dwelling unit may contact the Street Department for the city.
(Ord. 8-2016, passed 5-12-2016)

§ 50.05 RECYCLABLES PROCEDURES.

(A) The utility shall provide recycling receptacles (bags or containers) to residents of dwelling units who desire to engage in voluntary recycling. The utility may, in its discretion, charge an additional fee for the recycling receptacle.

(B) All recyclables shall be rinsed, drained, and segregated before being placed in recycling receptacles.

(C) Upon the placement of recyclables at a designated curbside or recyclable collection location, the recyclables shall become the property of the utility.
(Ord. 8-2016, passed 5-12-2016)

§ 50.06 BULKY WASTE PROCEDURES.

The resident of a dwelling unit may contact the utility to arrange a time for collection and disposal of bulky waste that does not exceed 1,000 pounds. The cost of collecting one item of bulky waste per month shall be included within the regular monthly waste disposal fee. An additional fee, as determined by the Board, will be imposed for all bulky waste that exceeds one per month.
(Ord. 8-2016, passed 5-12-2016)

§ 50.07 MISCELLANEOUS WASTE PROCEDURES.

(A) Unless the Board later determines otherwise, the utility shall not be responsible for collection of hazardous waste, Freon materials (including appliances containing Freon), electronics, televisions, construction or demolition debris, or infectious, commercial, industrial, or retail waste.

(B) Subject to the applicable rates and charges, as determined by the Board, any resident of the city may transport and deposit at utility designated drop off sites; recyclables, garbage, refuse, and bulky waste that are generated by or emanated from the resident's dwelling unit.
(Ord. 8-2016, passed 5-12-2016)

§ 50.08 COLLECTION PROCEDURES.

(A) All residential waste and recyclables, accumulated in the city, will either be collected, conveyed, and disposed of by the utility or, alternatively, the Board will designate a disposal. drop-off location. Collection will be made once each week. Collection schedules will be established and published by the Board.

(B) Collection shall be made from all dwelling units within the boundaries of the city and, in some instances, to areas outside the city as may be determined appropriate by the Board.

(C) Collection of recyclables will be made from the curbside location (unless the Board decides to designate a drop-off location for disposal).

(D) Collection of all residential waste receptacles and bulky waste shall be made from the designated curbside locations. The Board may, in its discretion, make an exception and allow for alley pickup in certain limited circumstances where the Board deems it most appropriate.

(E) Collection shall be made only between the hours of 6:00 a.m. and 6:00 p.m.

(F) The utility shall be responsible for the collection of two residential waste receptacles per week per dwelling unit.

(G) Residential waste receptacles in excess of two per week may be collected by the utility when affixed with a utility sanitation label or labels designating payment of the appropriate fee, as determined by the Board.

(H) All receptacles shall be placed on the collection site no earlier than 6:00 p.m. on the day preceding the scheduled collection. Collection of recyclables shall be on the same collection schedule and at the curbside location (unless the Board decides to designate a drop-off location for disposal).

(I) The utility shall have no obligation to collect recyclables, residential, or bulky waste that do not conform to the provisions of this chapter.

(J) All residential waste and recyclable items shall be contained within an appropriate receptacle. Receptacles and bulky waste to be picked up shall not be placed upon a street, alley, or sidewalk so as to be visible from the street more than 12 hours prior to the time when such receptacles and bulky waste are to be collected. Receptacles shall be placed within three feet of the curb or edge of pavement and, at minimum, three feet from any obstacle such as car, tree, mailbox, utility pole, and the like. All receptacles shall be removed from their collection site on the same day as the collection is made. Receptacles shall not be located so as to hinder or impede traffic by pedestrians or vehicles.
(Ord. 8-2016, passed 5-12-2016)

§ 50.09 COSTS OF COLLECTION.

(A) Collection of recyclables is included within the regular monthly waste disposal fee as defined by the current rate ordinance.

(B) Collection of the two residential waste receptacles per week is included in the monthly waste disposal fee as defined by the current rate ordinance.

(C) Collection of residential waste receptacles in excess of two per week must have a city sanitation label or labels affixed to the receptacle designating payment of the appropriate fee, as determined by the Board.

(D) Collection of bulky waste will be completed upon request and appointment made with the utility.

One bulky waste item per month is included within the monthly waste disposal fee. Additional items may be scheduled for pickup at an additional fee to be determined by the Board.

(E) Utility sanitation labels may be purchased from the utility or its duly authorized and designated retail agents at a cost to be determined by the Board.

(Ord. 8-2016, passed 5-12-2016)

§ 50.10 EXCLUSIONS.

This chapter does not apply (unless prior approval has been granted by the Board) to commercial, business and industrial properties or to mobile home courts and apartment complexes that contain more than four dwelling units.

(Ord. 8-2016, passed 5-12-2016)

§ 50.98 VIOLATIONS.

(A) (1) It shall be a violation of this chapter for any unauthorized commercial waste removal enterprise or provider to collect, obtain, possess, pick up or cause to be collected, obtained, possessed, or picked up any recyclables or residential or bulky waste from dwelling units served by the utility. Authorization means approval by the Utility Service Board. Occasional removal of bulk waste or yard waste or debris associated with construction, demolition, moving, or seasonal cleaning does not require authorization. Any and each such violation hereof from one or more locations shall constitute a separate and distinct violation of this chapter. Nothing contained in this section shall prohibit collection by privately contracted providers of waste removal services that have been authorized by the Board. Each dwelling unit will be responsible for the applicable monthly waste disposal fee regardless of whether the resident, tenant, or occupant uses the service.

(2) It shall be unlawful and a violation of this chapter for any person, firm or organization to:

(a) Throw, place, deposit or scatter any residential, or bulky waste onto or into any street, alley, or public way or into or on public or private property except as contained in appropriate receptacles and placed in the proper location for the dwelling unit all in accordance with the provisions of this chapter;

(b) Overturn, upset, damage, or remove any residential waste receptacle that has been placed for collection or tamper with or remove the contents thereof;

(c) Permit the accumulation, upon or in the dwelling unit or adjacent property, of recyclables or residential or bulky waste in an unsightly or unhealthy manner, or to in any way block or impede the flow of traffic on a street, alley, or public way;

(d) Haul, transport, or convey recyclables, residential waste, or bulky waste within the city unless such recyclables or waste is covered by a screen, wire mesh, tarpaulin, or the like sufficient to contain the contents during such hauling, conveying, or transporting.

(B) (1) Upon the violation of any provision of this chapter, the utility may institute civil proceedings to enforce the provisions of this chapter and to recover expenses, costs, and attorney fees incurred as a result of such violations. Any person, firm or organization who, upon conviction, is found to be in violation of any of the provisions of this chapter shall be fined as determined by City of Marion Code of Ordinances § 10.99.

(2) Each day a violation occurs or continues constitutes a separate offense.

(3) In addition to any other penalty provided for herein, the utility may take such civil action as provided by law, including, but not limited to, injunctive relief, abatement of a nuisance, or imposition of a lien for expenses.

(Ord. 8-2016, passed 5-12-2016)

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General Ordinance No. 8 -2016

AN ORDINANCE AMENDING THE RULES AND REGULATIONS CONCERNING REFUSE/GARBAGE/RECYCLING COLLECTION IN THE CITY OF MARION, INDIANA

WHEREAS, the City of Marion ("Marion") protects the public health, welfare and safety of the citizens of the City of Marion by collecting refuse/garbage/recycling; and

WHEREAS, the Marion Utility Service Board ("Board") supervises and controls the collection of refuse/garbage/recycling; and

WHEREAS, the Common Council of the City of Marion ("Council") has previously established rules and regulations concerning the collection of refuse/garbage/recycling in Marion; and

WHEREAS, said rules and regulations are currently codified in Chapter 50 of the Marion Code of Ordinances *(Reference Ord. 22-1994, passed 10-4-1994)*; and

WHEREAS, the Board has reviewed Chapter 50 of the Marion Code of Ordinances and recommends modifications to the code in order to more efficiently and effectively administer the collection of refuse/garbage/recycling in Marion; and

WHEREAS, the Council agrees with the recommendation of the Board and now desires to amend Chapter 50 of the Marion Code of Ordinances consistent with the Board's recommendations.

IT IS THEREFORE CONSIDERED, ORDAINED, AND ADOPTED as follows:

Section 1. **Recitals.** The foregoing recitals are incorporated herein by reference.

Section 2. **Chapter 50 of the Marion Code Repealed and Replaced.** Chapter 50 of the Marion, Indiana Code of Ordinances is hereby repealed and replaced with the language in Exhibit A attached hereto and incorporated herein by reference.

Section 3. **Inconsistent Ordinances Superseded.** Any ordinance, rule, resolution, or regulation or provision, chapter, section, subsection, or subparagraph thereof that is/are inconsistent with the Ordinance is/are hereby superseded. However, any ordinance, rule resolution, or regulation or provision, chapter, section, subsection, or sub paragraph thereof that is/are not inconsistent with this Ordinance remain(s) in full force and effect.

Section 4. **Utility Service Board Recommendation.** The Board reviewed this Ordinance and has recommended that the Council adopt this Ordinance.

Section 5. **Severability.** The provisions of this Ordinance are separable, and if a court of competent jurisdiction declares any portion of this Ordinance unconstitutional, invalid, or unenforceable for any reason, such declaration shall not affect the remaining portions of this Ordinance.

Section 6. **Effective Date.** This Ordinance is effective immediately upon passage.

RECOMMENDED FOR APPROVAL BY THE Utility Service Board of the City of Marion, Indiana this 12th day of May, 2016.

Robert Logan
Chairman, Marion Utility Service Board

PASSED AND APPROVED BY THE Common Council of the City of Marion, Indiana this 7 day of June 2016.

James Brunner
President, Marion Common Council

ATTEST:
Kathleen Kiley, City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 8 day of June, 2016.

Kathleen Kiley, City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 9th day of June, 2016.

Mayor, Jess Alumbaugh

General Ordinance No. 15 2015

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MARION, INDIANA AMENDING GENERAL ORDINANCE 4-1951 TO EXEMPT MARION UTILITIES TRASH TRUCKS AND STREET SWEEPERS FROM THE PROHIBITION OF DRIVING ONE WAY ON CERTAIN DESIGNATED STREETS IN THE CITY OF MARION DURING TRASH PICK UP AND STREET SWEEPING OPERATIONS.

WHEREAS, in 1951 This Council adopted General Ordinance 4-1951, since amended multiple times through the succeeding years, to designate certain streets and alley-ways as "one-way", whereby all vehicular traffic is permitted to move only In one designated direction; and,

WHEREAS, General Ordinance 4-1951, Title VII (Traffic Code), Chapter 70, Section 70.57 made it unlawful for any public employee, and vehicles being operated by public employees, to violate any provision of Title VII (Traffic Code), Chapter 70 except as otherwise permitted in Chapter 70 or by State law; and,

WHEREAS, beginning January 1, 2016 the Marion Municipal Utilities will undertake all trash and recycling efforts in the City of Marion, Indiana and will be hampered in their collection work by the one-way driving restriction on designated streets and alleys due, among other reasons, to the physical design of the trucks and placement of the mechanical arms used to lift trash containers unless special exception is made for these trucks during the times of trash collection. Similar difficulties exist for street sweeping trucks.

NOW, THEREFORE, it is hereby ordained by the Common Council of the City of Marion, Indiana that Title VII (Traffic Code), Chapter 70, Section 70.57, SCHEDULE V. ONE-WAY STREETS AND ALLEYS, Subsection (B) be amended thusly:

> "(B) Any person who violates any provision of this schedule shall be deemed to have committed an ordinance violation and, upon conviction, shall be fined as determined by Section 10.99. However, trash trucks and street sweeping equipment being operated by the Marion Municipal Utilities during their regular trash and recycling collection routes and street sweeping operations shall be exempt from the one-way designation for vehicular traffic set forth in the table contained in this SCHEDULE V for all streets except for 3rd Street, 4th Street, Adams Street, and Washington Street all of which shall remain one-way even for Utility trash trucks and street sweeping equipment.

This ordinance shall become effective upon passage by the Common Council of the City of Marion, Indiana.

ADOPTED this 15 day of December, 2015.

COMMON COUNCIL OF THE CITY OF MARION, INDIANA

Joselyn Whitticker, President

ATTEST:

Kathy Kiley, City Clerk

APPROVED THIS 15 day of December, 2015

GENERAL ORDINANCE NO. 14-2014

ORDINANCE AMENDING GENERAL ORDINANCE NO. 1-2010 CONCERNING THE WASTE DISPOSAL FEE FOR THE CITY OF MARION

WHEREAS, the City of Marion, Indiana ("Marion") protects the public health, welfare and safety of the citizens of Marion by collecting refuse/garbage/recycling; and

WHEREAS, on January 19, 2010, the Common Council for the City of Marion, Indiana (the "Common Council") adopted General Ordinance No. 1-2010 (the "Fee Ordinance") establishing a refuse/garbage/recycling fee ("Waste Disposal Fee"); and

WHEREAS, under separate Ordinance, the Common Council has determined to transfer the supervision and control over the collection of refuse/garbage/recycling to the Marion Utility Service Board ("Utility Service Board"); and

WHEREAS, Indiana Code § 36-9-30-21 authorizes Marion to establish and maintain a just and equitable Waste Disposal Fee and to amend the fee if necessary; and

WHEREAS, the Utility Service Board has retained the independent accounting firm of Crowe Horwath LLP to prepare an accounting study and recommended rate for the collection of refuse/garbage/recycling; and

WHEREAS, the Utility Service Board has relied upon the analysis completed by Crowe Horwath LLP and recommended that the Common Council amend the Waste Disposal Fee as provided in this Ordinance; and

WHEREAS, the Common Council desires to adopt the Utility Service Board's recommended amendment to the Waste Disposal Fee so as to ensure that revenue generated by the fee is sufficient to fund the collection of refuse/garbage/recycling.

NOW THEREFORE, be it ordained by the Common Council of Marion County, Indiana as follows:

Section 1. **Recitals.** The foregoing recitals are incorporated herein by reference.

Section 2. **User Fee.** The Waste Disposal Fee is hereby amended such that the Waste Disposal Fee shall be the flat rate amount of $13.80 per month per unit served. Prior to executing any new agreements with a third-party contractor (for waste disposal service) which require a change to the Waste Disposal Fee, the Utility Service Board will make a recommendation to, and seek final approval from, the Common Council as to the amount of such fee.

Section 3. **Automatic Tracker.** To the extent that there is a change in cost from a third party contractor who is retained by the Utility Service Board to collect the

refuse/garbage/recycling, the Utility Service Board may track that change in cost by adding an additional surcharge to the Waste Disposal Fee established in Section 2 above without further action by the Common Council. This provision is only intended to allow the Utility Service Board to recover in rates any increases lawfully imposed by the third-party contractor. This provision does not authorize the USB to recover additional operation and maintenance costs or any other internal costs of the City other than those increased costs directly from the third party contractor.

Section 4. **Effective Date.** The Waste Disposal Fee fixed by this Ordinance shall become effective on and after January 1, 2015.

Section 5. **Persons Subject to Fees.** The Waste Disposal fee established in this Ordinance shall be assessed where refuse/garbage/recycling collection service is received. Refuse/garbage/recycling will not be picked up from and no Waste Disposal fee will be charged to the following:

1. Multi-family residential unit larger than a fourplex;
2. A multi-family residential unit which is part of an apartment complex;
3. Two or more fourplexes which are adjacent to each other and which are owned by the same person or entity;
4. Commercial and industrial properties.

Section 6. **Billing Procedure.**

A. **Generally.** The Waste Disposal Fee shall be rendered and collected approximately monthly. The Utility Service Board shall make and enforce such bylaws and regulations as may be deemed necessary for the regulation, collection, and rebating of the Waste Disposal Fee prescribed by this Ordinance.

B. **Tenants May Be Billed; Right of Owners to Examine Records.** The Waste Disposal Fee may be billed to a Tenant occupying the residential premises, unless otherwise instructed in writing by the Landlord or person who owns the residential premises. Such billings shall in no way relieve the Landlord or person who owns the residential premises of liability in the event payment is not made as herein required. The owners of the residential premises served, which are occupied by Tenant(s), shall have the right to examine the collection records of the Utility Service Board for the purpose of determining whether the Waste Disposal Fee has been paid by the Tenant(s), provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.

C. **How Delinquencies Arise.** The Waste Disposal Fee shall be due and payable on or before the due dates shown on the bills. Any Waste Disposal Fee not paid by the due date (approximately thirty (30) days after the bill is rendered) shall be considered delinquent. Delinquent Waste Disposal Fees, together with costs and other expenses

of collection may be collected by any lawful remedy, including, where applicable, the placing and foreclosure of liens on real estate.

D. Collection; Deposit; Penalty; or Deferred Payment Charge; Attorney Fees; and Other Collection Costs.

1. All payments for the Waste Disposal Fee must be received in the Marion Utility Office within thirty (30) days from the billing date stated on the bill. Occupants or owners who are habitually late with their payments, more than three times in a calendar year, may, in the Utility Service Board's sole discretion, be required to make a deposit equal to three (3) months of service. That deposit will be applied to all or partial payment of an unpaid outstanding bill, or have their refuse/garbage/recycling collection service discontinued. If the total amount of the deposit is not used, the remainder of the deposit will be refunded to the occupant/owner after their service has been discontinued.

2. Failure of an occupant or owner to make timely payment shall subject the same to a penalty or late charge of ten percent (10%).

3. Submission of any delinquent account to an attorney for collection shall entitle the Utility Service Board to recover reasonable attorneys' fees, expenses incurred by the Utility Service Board in the collection process, and court costs, if any.

4. Delinquent accounts may be collected through a complaint filed by an attorney or Utility Service Board appointed employee as allowed by applicable law.

E. Evidence of Bill Mailing. The printout sheet from the computer, so far as the Utility Service Board is concerned, is proof of mailing of the utility bills, and if the owner/occupant claims not to have received a bill then the late charge will stand as a part of his bill if the printout sheet indicates a bill was mailed.

F. Returned Checks. If the Utility Service Board receives a check for payment of an outstanding Waste Disposal Fee and said check is returned for insufficient funds, the Utility Service Board may assess an additional fee of thirty-five dollars ($35) in addition to all other applicable charges. Cash, cashier's check, or money order will be required to pay all such charges.

G. Deposits Applied to Delinquent Charges. In the event the Waste Disposal Fee is not paid, the deposit will be forfeited and applied toward such delinquent fees, and refuse/garbage/recycling collection service may be discontinued.

H. General Penalties; Continuing Violations. The commission of any act prohibited by this Ordinance or by lawful order or regulation of the Utility Service Board shall

be a punishable violation for which, unless there is another specific penalty provided, the penalty shall be a fine of not more than five hundred dollars ($500). In the case of disposal of hazardous materials in violation of this Ordinance or any valid order or regulation of the Utility Service Board, or any other law, each day of violation constitutes a separate offense.

I. **Joint Billing.** The Utility Service Board may, in its discretion, choose to bill the Waste Disposal Fee and any other utility service on one single bill. In the event the Utility Service Board determines to bill the Waste Disposal Fee on the same bill as any other utility service and a customer makes a partial payment on such bill, regardless of how the customer directs any such partial payment to be applied, the payment shall be applied first to the Waste Disposal Fee, then to the municipal Stormwater Fee, then to the municipal Drinking Water Fee, and then to the municipal Wastewater Fee.

Section 7. **Fees are Reasonable and Just.** The Utility Service Board retained the independent accounting firm of Crowe Horwath LLP to prepare an accounting study and recommended rate for the collection of refuse/garbage/recycling. Based upon that analysis, the Utility Service Board recommended that the Common Council adopt this Ordinance and has found the fees, charges, and procedures identified in this Ordinance to be reasonable and just. The Common Council now finds that the proposed fees as adopted herein are reasonable and just and all requirements for adoption of this Ordinance have been met.

Section 8. **Inconsistent Ordinances.** All prior ordinances or parts thereof inconsistent with any term or provision of this Ordinance are hereby repealed. All other provisions of Such Ordinances shall remain unaltered and in full force and effect.

Section 9. **Severability.** In the event any one or more of the provisions contained in this Ordinance should be held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired and shall remain in full force and effect. Furthermore, to the extent any portion of the Waste Disposal Fees in this Ordinance are declared invalid, such portion of the Waste Disposal Fee shall be replaced by a similar portion of the Waste Disposal Fee established under the immediately prior Ordinance as though unaltered herein.

RECOMMENDED FOR APPROVAL BY THE Utility Service Board of the City of Marion, Indiana this 13th day of November 2014.

Presiding Officer, Marion Utility Service Board

PASSED AND APPROVED BY THE Common Council of the City of Marion, Indiana this 2 day of Dec., 2014.

President, Marion Common Council

ATTEST:

Kathleen Kiley, City Clerk

PRESENTED by me to the Mayor of the ~~City~~ of Marion, Indiana, this 3 day of Dec., 2014.

Kathleen, Kiley, City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 15th day of Dec, 2014.

Mayor, Wayne Seybold

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GENERAL ORDINANCE NO. 13-2014

TRANSFERRING SUPERVISION AND CONTROL OF REFUSE/GARBAGE/RECYCLING COLLECTION FROM THE BOARD OF PUBLIC WORKS TO THE UTILITY SERVICE BOARD

WHEREAS, the City of Marion ("Marion") protects the public health, welfare and safety of the citizens of the City of Marion by collecting refuse/garbage/recycling; and

WHEREAS, Marion's Board of Public Works ("Board of Public Works") currently supervises and controls the collection of refuse/garbage/recycling (including billing and collecting fees therefrom); and

WHEREAS, Marion has established a Utility Service Board ("Utility Service Board"); and

WHEREAS, pursuant to Indiana Code § 36-9-30-7 the Common Council of the City of Marion ("Common Council") may establish that supervision and control of the collection of refuse/garbage/recycling (including billing and collecting fees therefore) come under the purview of the Utility Service Board; and

WHEREAS, the Common Council desires to remove control and supervision of the collection of refuse/garbage/recycling (including billing and collecting fees therefore) from the Board of Public Works and to vest control and supervision for the collection of refuse/garbage/recycling (including billing and collecting fees therefore) in the Utility Service Board; and

WHEREAS, the Common Council understands that a revised fee is being considered for the collection of refuse/garbage/recycling; and

WHEREAS, the Utility Service Board has reviewed this Ordinance and recommended that the Common Council adopt the Ordinance; and

WHEREAS, the Common Council desires to follow the recommendation of the Utility Service Board and effectuate this transfer of authority upon the Utility Service Board recommending a revised fee for the collection of refuse/garbage/recycling; and

WHEREAS, the Common Council desires to transfer and/or assign or have transferred and/or assigned all contracts for refuse/garbage/recycling collection and/or supervision from the Board of Public Works to the Utility Service Board; and

WHEREAS, the Common Council desires to cancel the memorandum of understanding between Marion, the Board of Public Works, and/or the Utility Service Board concerning the billing and collection of fees for the collection of refuse/garbage/recycling; and

WHEREAS, the Common Council desires to amend the Marion Code of Ordinances to the extent they are inconsistent with this Ordinance to reflect this transfer of authority.

IT IS THEREFORE CONSIDERED, ORDAINED, AND ADOPTED as follows:

Section 1. **Recitals.** The foregoing recitals are incorporated herein by reference.

Section 2. **Transfer of Control and Supervision.** Pursuant to the terms and conditions established herein, the Common Council of the City of Marion hereby transfers the control and supervision over the collection of refuse/garbage/recycling (including billing and collecting fees therefore) from the Board of Public Works to the Utility Service Board.

Section 3. **Transfer of Billing and Collection.** The refuse/garbage/recycling fee collected pursuant to General Ordinance 1-2010 shall now be billed and collected by the Utility Service Board.

Section 4. **Adoption of Revised Fee Contingency.** The Utility Service Board shall, under a separate Ordinance, recommend to the Common Council a revised fee, which the Common Council may adopt. If the Utility Service Board fails to recommend and/or the Common Council fails to adopt a revised fee within thirty (30) days hereof, then supervision and control of collection of refuse/garbage/recycling shall revert to the Board of Public Works, and this Ordinance, and all of its terms and conditions, shall be null and void.

Section 5. **Persons Subject to Fees.** The Utility Service Board shall ensure that a refuse/garbage/recycling fee shall be assessed where refuse/garbage/recycling collection service is received. Refuse/garbage/recycling will not be picked up from and no fee will be charged to the following:

1. Multi-family residential unit larger than a fourplex;

2. A multi-family residential unit which is part of an apartment complex;

3. Two or more fourplexes which are adjacent to each other and which are owned by the same person or entity;

4. Commercial and industrial properties.

Section 6. **Memorandum of Understanding Canceled.** The Memorandum of Understanding between the Common Council, Utility Service Board, and/or the Board of Public Works concerning the billing and/or collection of the refuse/garbage/recycling fee (a true and accurate copy of which is attached hereto as Exhibit A) shall be, and hereby is, null and void.

Section 7. **Assignment of Third Party Contracts.** Any and all contracts between the Board of Public Works and any third party concerning the supervision or control of the collection of refuse/garbage/recycling (including billing and collecting fees therefore) (including, but not necessarily limited to, the agreement with Republic Services of Indiana LP d/b/a Wabash

Valley Refuse Removal (a true and accurate copy of which is attached hereto as Exhibit B)) shall be assigned and/or transferred from the Board of Public Works to the Utility Service Board.

Section 8. **Honor Outstanding Contracts.** The Utility Service Board shall honor all outstanding contracts between the Board of Public Works and any third party concerning control and/or supervision of the collection of refuse/garbage/recycling (including billing and collecting fees therefore). Nothing in this Ordinance shall prohibit the Utility Service Board from canceling, revoking, or otherwise terminating any outstanding agreement by proper action. In addition, the USB is not responsible for any liabilities incurred prior to the anticipated date of transfer (i.e. January 1, 2015).

Section 9. **Current Regulations Continue.** It is the intent of the Common Council that this Ordinance and the acts hereunder not abrogate or alter the prior and currently applicable rules and regulations related to the collection of refuse/garbage/recycling (including billing and collecting fees therefore), subject only to the transfer of functions attendant to the transfer of authority from the Board of Public Works to the Utility Service Board as set forth herein. To that end, all prior rules and regulations of the Board of Public Works are ratified and reaffirmed until such other time as the Utility Service Board determines otherwise. All prior ordinances and resolutions in conflict with the transfer of functions from the Board of Public Works to the Utility Service Board as set forth in this Ordinance are hereby superseded to the extent they are in conflict herewith.

Section 10. **Amendments to Code of Ordinances.** The Marion Code of Ordinances shall be amended to reflect and effectuate this Ordinance. In particular, Marion Code of Ordinances, Chapter 50 is hereby amended as follows: *(Text that is ~~struck through~~ is to be removed. Text that is in red is to be added).*

§ 50.01 DEFINITIONS
* * *

~~BOARD OF PUBLIC WORKS~~. ~~The Board of Public Works of the city, its agents or designees.~~ The City Utility Service Board or any duly authorized officials acting on its behalf.

§ 50.02 BOARD ~~OF PUBLIC WORKS~~.

(A) The Board ~~of Public Works~~ shall promulgate such rules and regulations as may be necessary to effectuate the operation and intent of this chapter.

(B) The Board ~~of Public Works~~ shall promulgate such rules and regulations as may be necessary to effectuate the operation and intent of the powers and duties mandated by the State of Indiana.

(C) The Board ~~of Public Works~~ shall have the power and authority to purchase such equipment and employ such personnel as may be necessary to carry out the provisions and intent of this chapter.

(D) The Board ~~of Public Works~~ shall have the power and authority to lease, rent, build or contract for the necessary land and facilities to effectuate the operation and intent of this chapter.

§ 50.08 CITY COLLECTION PROCEDURES.

(B) Collection shall be made at least once each week or more often as may be ordered by the Board ~~of Public Works~~. Collection schedules shall be established and published by the Board.

(E) Collection of all residential waste receptacles, yard waste receptacles and bulky waste shall be made from alleyways where road conditions permit and alley service is more convenient than street service. Where collection of such waste is not accomplished by the use of an alley, then the collection shall be at the curbside location. The Board ~~of Public Works~~ shall have the authority to determine which alleys will have collection service and when weather conditions permit such service. All nondisposable receptacles shall be returned to an upright position and the covers replaced.

§ 50.10 EXCLUSIONS.

This chapter does not apply (unless prior approval has been granted by the Board ~~of Works~~) to commercial, business and industrial properties nor to mobile home courts and apartment complexes that contain more than four dwelling units.

§ 50.98 (A)(1) VIOLATIONS

(A)(1) It shall be a violation of this chapter for any unauthorized commercial waste removal enterprise or provider to collect, obtain, possess, pick up or cause to be collected, obtained, possessed or picked up any recyclables, yard, residential or bulky waste from dwelling units within and served by the city. Authorization means approval by the Board ~~of Works~~. Occasional removal of bulk waste or yard waste or debris associate with construction, demolition, moving or seasonal cleaning does not require authorization. Any and each such violation hereof from one or more locations shall constitute a separate and distinct violation of this chapter. Nothing contained in this section shall prohibit collection by privately contracted providers of waste removal services.

Section 11. **Inconsistent Ordinances Superseded.** Any ordinance, rule, resolution, or regulation or provision, chapter, section, subsection, or subparagraph thereof that is/are inconsistent with this Ordinance is/are hereby superseded. However, any ordinance, rule, resolution, or regulation or provision, chapter, section, subsection, or subparagraph thereof that is/are not inconsistent with this Ordinance remain(s) in full force and effect.

Section 12. **Utility Service Board Recommendation.** The Utility Service Board reviewed this Ordinance and has recommended that the Common Council adopt this Ordinance.

Section 13. **Severability.** The provisions of this Ordinance are separable, and if a court of competent jurisdiction declares any portion of this Ordinance unconstitutional, invalid, or unenforceable for any reason, such declaration shall not affect the remaining portions of this Ordinance.

Section 14. **Effective Date.** While this Ordinance is effective immediately upon passage, Marion intends for the transfer of authority from the Board of Public Works to the Utility Service Board to be effective as of January 1, 2015.

RECOMMENDED FOR APPROVAL BY THE Utility Service Board of the City of Marion, Indiana this 13th day of November, 2014.

Presiding Officer, Marion Utility Service Board

PASSED AND APPROVED BY THE Common Council of the City of Marion, Indiana this 2 day of Dec., 2014.

President, Marion Common Council

ATTEST:

Kathleen Kiley, City Clerk

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 3 day of Dec., 2014.

Kathleen, Kiley, City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana, this 15 day of Dec, 2014.

Mayor, Wayne Seybold

2583927_6

GENERAL ORDINANCE NO. 13 - 1997 ← NEW NUMBER

13-1997

TRASH ORDINANCE

WHEREAS, the present ordinances entitled General Ordinance Number 24-1988, Providing for the Abatement of Public Nuisance Within the City of Marion, is in need of revision.

NOW, THEREFORE, be it ordained by the Common Council of the City of Marion, Indiana:

That General Ordinance Number 24-1988 (← 13-1997) is hereby repealed.

That there is hereby established and adopted a revised ordinance which shall constitute a new ordinance of the Municipal Code of the City of Marion as follows:

TRASH AND PUBLIC NUISANCES

Section A -- Purpose and Intent

It is hereby declared to be the purpose of this ordinance to protect the public safety, health, welfare and enhance the environment of the people of the City of Marion by making it unlawful for any person to maintain, use, create, cause, place, deposit, leave or permit a nuisance to remain on any property and to promote the health and general welfare of the people of the City of Marion by prohibiting the throwing, casting or depositing or litter in or upon any private or public property within the City of Marion limits.

Add Yard Waste Language

Section B -- Definitions

For the purpose of this ordinance, the following terms shall have the following meanings. The word "shall" will be mandatory and not merely directory.

(1) Authorized Employee - An individual designated to make the necessary inspections or any individual(s) of any governmental department of the City of Marion, which department has been designated by the Mayor of the City of Marion to enforce this ordinance.

CODE ENFORCEMENT

(2) City -- The City of Marion.

(3) Public Nuisance -- Whatever is injurious to health, or indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property. The following is a list of public nuisances, but does not limit, the condition constituting a nuisance under this Ordinance section:

(a) Accumulations of rubbish, trash, refuse, junk and other abandoned materials, metals and lumber;

(b) Any condition which provides harborage of rats, mice, snakes, insects and other vermin;

(c) Disagreeable or obnoxious odors and stenches as well as the conditions, substances or other causes which give rise to the

TIRES-??

emission or generation of those odors and stenches;

(d) Carcasses of animals or fowls, not disposed of within a reasonable amount of time after death;

(e) Buildings, structures of other places and locations where any violation of Federal, State of City law is conducted, maintained or performed;

(f) Accumulations of stagnant water;

(g) It shall be a nuisance for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under their control, in a place accessible to children, any abandoned, unattended or discarded freezer, refrigerator or other container which has an airtight door or lid, without first removing the door lid from the freezer, refrigerator or container.

(h) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of the people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;

(i) The unauthorized obstruction of any public street, road, alley, sidewalk or any other public thoroughfare or right-of-way;

(j) The pollution of any public well, cistern, stream, lake, canal or body of water by sewage, dead animals, industrial waste or other substances.

(k) It shall be a nuisance to permit furniture designed for

interior use or household furnishings to sit or be placed outside any structure, unless placed for refuse collections.

(4) Governmental Property -- Real estate within the City of Marion which owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof.

(5) Officer -- An employee of the Code Enforcement Department or any other governmental department of the City of Marion, so designated by the Mayor of the City of Marion having law enforcement powers to issue city ordinance violation summons in order to enforce the provisions of this ordinance.

(6) Owner -- Shall be presumed to be any one or more of the following:

(a) The owner or owners in fee simple of a parcel of real estate including the life tenant if any; or

(b) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or

(c) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.

(7) Private Property -- All real estate within the City of Marion except governmental property.

Section C -- Application of Chapter

(1) Each department or agency of the United States, the State of Indiana, or any political subdivision thereof, shall be required to keep governmental property free from public nuisances.

(2) Any owner of private property shall be required to keep that private property free from public nuisances.

Section D -- Prohibited Activity

It shall be unlawful for any owner of private property of governmental property to allow a public nuisance to exist on that property.

Section E -- Determination of Violation; Notice of Violation

(1) Assignment of Complaint - The Code Enforcement Department shall thereafter forward the complaint to the officer for processing, who in turn, shall visually inspect the property in question. If the officer determines that a violation exists they shall issue a **Notice of Violation** as provided below.

(2) Notice to Abate -- When a complaint addresses private property, the officer through the Code Enforcement Department shall cause a written notice to abate to be served upon the owner of the property in question, granting that owner a minimum of ten (10) calendar days in which to remove the public nuisance. This notice

shall be served by regular 1st Class United States mail postage prepaid and provided further that any failure to give such written notice shall not constitute a defense to any action to enforce the provisions of Section D. If the officer determines that an emergency requires that an action proceed without this notice, the officer shall follow Section F (2).

(3) Inspection - Following the expiration of the "Notice to Abate", an officer shall visually inspect the property to determine whether a public nuisance still exists. If a public nuisance exists, action shall be taken to abate that nuisance in accordance with this ordinance.

(4) Abatement by City on Government Property -- Where the complaint addresses governmental property and it is determined by the officer that a violation exists and threatens the health and safety of the people of the City of Marion the officer may direct the City to immediately enter upon the premises and remove the public nuisance.

Section F -- Enforcement

(1) Citation for Violation - If the officer finds that a public nuisance exists on private property and has not been abated as directed in the written notice to abate, that officer may cause a Citation for Violation of a City Ordinance to be issued to the offending property owner. Any person who violates any provisions

of this Code Section shall be deemed to have committed an ordinance violation and upon conviction, shall be fined not less than Fifty Dollars ($50.00) and not more than Twenty-five Hundred Dollars ($2,500.00). The court may order the City to abate the violation and shall impose costs as incurred and calculated under Section F(3). Each day a violation continues after an action has been commenced to abate the nuisance that nuisance shall constitute a separate ordinance violation. No additional notice under this Code section shall be required to initiate these separate actions once an action has been commenced against the person violating this Code section.

(2) Abatement by City on Private Property - In addition to the issuance of a citation for the Violation of a City Ordinance under Section F (1), the officer may bring a civil action in the Marion City Court or any court of record and obtain an order allowing the City to abate the public nuisance and recover costs pursuant to this Ordinance, which shall include: costs of removal of the public nuisance, administrative fees not to exceed One Hundred Dollars $100.00 per charge, and all recording fees, together with any other reasonable fees actually incurred in abating the public nuisance, including costs of collection and attorney fees. In addition, the officer may seek to enjoin the public nuisance through application to the proper court.

(3) Responsibility of Offender for Costs of Enforcement - The Code Enforcement Department shall make a statement of the costs

incurred in eliminating the public nuisance, administrative fees, attorney fees if court ordered enforcement is necessary and all recording fees associated with their collection the outstanding balances. The following fees shall be charged:

(a) Administrative Fees $100.00

These fees would cover such administrative tasks as inspecting the property to determine the violation, to determine compliance, determining ownership and preparing and mailing notices.

(b) Labor and Fees

The following labor fees per person, per hour or fraction thereof, for labor necessary to abate a public nuisance.

Operator/Driver/Laborer w/o CDL . . . . . $14.00 - ? 20.00

Operator/Driver/Laborer w/CDL . . . . . $14.18 - ? 25.00

Supervisor . . . . . $19.99 - ? 35.00

(c) Equipment Fees

The following equipment fees per machine, per hour or fraction thereof, for the use of each piece of equipment necessary to abate the public nuisance.

Pick-up Truck . . . . . $10.00 - 25.00

Tractor/Bush Hog . . . . . $15.00 - 35.00

Backhoe . . . . . $15.00 - 45.00

Dump Truck . . . . . $15.00 - 55.00

Packer . . . . . $15.00 - 75.00

Loader . . . . . $15.00 - 75.00

(d) Any landfilling fees actually incurred to dispose of litter and waste products removed.

(e) Any other reasonable fees actually incurred in abating a public nuisance. Said statement shall be delivered to the property owner by 1st Class Mail. The owner shall pay the amount noted to the City of Marion within ten (10) days after receipt, which shall be deposited in the General Fund. WEED ACCOUNT

(4) **Failure to Pay** -- If the owner fails to pay the amount within ten (10) days after receiving the statement, the Code Enforcement Department may institute action necessary to collect the debt.

Section G -- Property Owner Right to Object to Complaint.

Upon receipt of a "Notice to Abate", the property owner of their duly authorized representative may notify the Code Enforcement Department of an intent to object to any "Notice to Abate".

This correspondence shall be in writing and shall specify the street address involved, as well as the current mailing address and phone number of the property owner or their representative. Any such correspondence must be received by the Code Enforcement Department within the amount of time set out in the "Notice to Abate".

Upon receipt of such correspondence, the Code Enforcement

Department shall provide copies of same to the City Attorney and to the officer involved in the violation, who shall cause the objection to be investigated. If the officer determines that the violation has not been corrected, he shall file the cause in the Marion City Court or any other court of record. No other action concerning the property in question shall be pursued against the owner to abate the environmental public nuisance until resolution of the objection thereto.

Section H -- Severability

If any provisions of this ordinance or any application thereof, is held invalid, the invalidity shall not effect other applications of the provisions or terms of this ordinance which reasonable can be given effect without the invalid provision or term or the application thereof.

Notwithstanding any provision of this ordinance, this ordinance shall not be construed to repeal any former ordinance as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred or any right accrued or claim arising under the former ordinance.

That this ordinance shall be in force and effect from and after its passage and any and all necessary approval by the Mayor and due publications.

PASSED AND APPROVED by the Common Council of the City of Marion, Indiana, this 1st day of April, 1997.

President, Marion Common Council

ATTEST:

PRESENTED by me to the Mayor of the City of Marion, Indiana this 2 day of April, 1997

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana this 2 day of April, 1997.

Mayor, City of Marion, Indiana

GENERAL ORDINANCE NO. 22-1994

An Ordinance regulating the placement, collection and disposal of residential, yard and bulky waste within the City of Marion, Indiana; providing for voluntary curbside recycling; providing for penalties for violation of this Ordinance; and, repealing prior Ordinance 36-9-30-12 and all other Ordinances in conflict herewith.

Whereas, it appears to the Common Council of the City of Marion, Indiana, that the municipal ordinances relating to the placement, collection and disposal of residential, yard and bulky waste within the City of Marion, Indiana, have been adopted, modified, repealed and amended numerous times in the past; and,

Whereas, it appears that, due to the numerous adoptions, repeals and amendments, it has become difficult and confusing to ascertain and identify the location of the current Ordinances regulating the disposal of residential, yard and bulky waste; and,

Whereas, the Common Council of the City of Marion, Indiana, deems it appropriate to codify in one Ordinance the existing Ordinances relating to the disposal of residential, yard and bulky waste and repeal all prior Ordinances dealing with that subject; and,

Whereas, it appears to the Common Council of the City of Marion, Indiana, that it would be in the best interest of the citizens of Marion, Indiana, and further, that it would promote the health, safety and general welfare of the citizens of the City of Marion, Indiana, to adopt a voluntary curbside recycling Ordinance; and,

and which shall have a City Sanitation Label attached to the handle; (ii) A 2-ply wet strength paper bag that is or will be securely sealed with the City Sanitation Label. The bag shall be of a size not to exceed 32 gallons in capacity and a single bag, when filled, shall not weigh more than forty (40) pounds; or, (iii) A Novon polymers lawn and leaf bag, designed for composting biodegradable material and, when filled, does not exceed forty (40) pounds and that is securely sealed with a City Sanitation Label.

SECTION 2. BOARD OF PUBLIC WORKS: RULES AND REGULATIONS.

(A) The Board of Public Works shall promulgate such rules and regulations as may be necessary to effectuate the operation and intent of this Ordinance.

(B) The Board of Public Works shall promulgate such rules and regulations as may be necessary to effectuate the operation and intent of the powers and duties mandated by the State of Indiana.

(C) The Board of Public Works shall have the power and authority to purchase such equipment and employ such personnel as may be necessary to carry out the provisions and intent of this Ordinance.

(D) The Board of Public Works shall have the power and authority to lease, rent, build or contract for the necessary land and facilities to effectuate the operation and intent of this Ordinance.

(iv) A City Sanitation Label must be placed on every Residential Waste Receptacle, exceeding two (2) per week, every week before collection. The City shall furnish and distribute such labels in accordance with Section 9 of this Chapter. No items of Residential Waste shall be collected by the City without the approved City Sanitation Label.

SECTION 4. YARD WASTE PROCEDURES.

(A) All Yard Waste shall be placed in a Yard Waste Receptacle separate from Residential Waste and shall not be mixed or commingled with any other materials.

(B) Brush, tree trimmings, hedge clippings and similar materials shall be cut to a length not to exceed four feet and securely tied in bundles not more than two feet thick before being deposited for collection. Each bundle shall have affixed a City Sanitation Label.

(C) Leaves shall be raked to within six (6) feet of, but not upon, a street, alley or public way at locations designated by the City. The City shall collect or vacuum the leaves at no charge from October 1st thru November 30th of each year. Thereafter, the City shall only collect the leaves when contained in a proper yard waste receptacle which is properly tagged with City Sanitation Label.

(D) Yard Waste Receptacles. Yard Waste Receptacles shall be provided by the owner, tenant, lessee, or occupant of the dwelling unit. Yard Waste Receptacles shall be maintained in good sanitary

that plastic, tinsel, metal and other decorations have been removed prior to collection.

(C) Any resident of the City may, without charge, transport and deposit, at City designated drop off sites, Recyclables and Yard Waste that is generated by or emanated from their own Dwelling Unit.

SECTION 8. CITY COLLECTION PROCEDURES.

(A) All Residential Waste, Yard Waste and Recyclables accumulated in the City shall be collected, conveyed and disposed of by the City.

(B) Collection shall be made at least once each week or more often as may be ordered by the Board of Public Works. Collection schedules shall be established and published by the Board.

(C) Collection shall be made from all Dwelling Units within the boundaries of the city.

(D) Collection of Recyclables shall be made from the Curbside Location.

(E) Collection of all Residential Waste Receptacles, Yard Waste Receptacles and Bulky Waste shall be made from alleyways where road conditions permit and alley service is more convenient than street service. Where the collection of such Waste is not accomplished by the use of an alley, then the collection shall be at the Curbside Location. The Board of Public Works shall have the authority to determine which alleys will have collection service and when weather conditions permit such service. All

SECTION 9. COSTS OF COLLECTION.

(A) Collection of Recyclables shall be at no charge to a Dwelling Unit.

(B) Collection of the two (2) Residential Waste Receptacles per week shall be at no charge to the Dwelling Unit.

(C) Collection of Residential Waste Receptacles in excess of 2 per week and Yard Waste Receptacles must have a City Sanitation Label affixed to the Receptacle.

(D) Collection of Bulky Waste must have three (3) City Sanitation Labels affixed to the item or Receptacle.

(E) City Sanitation Labels may be purchased from the City or its duly authorized and designated retail agents at a cost of One Dollar ($1.00) per Label.

(F) Collection of loose and uncontained leaves by the City vacuuming process that are swept, raked and located to and within six (6) feet of, but not upon, a street, road or public way. The City shall collect or vacuum the leaves at no charge from October 1st thru November 30th of each year. Thereafter, the City shall pick up leaves, grass clippings, garden debris in a proper yard waste receptacle properly tagged with City Sanitation Label.

(G) The cost for using the City yard waste drop site by authorized commercial yard waste removal enterprises or providers, who are not agents of the City, shall be as follows:

(i) Seven Dollars and fifty cents ($7.50) per load up to a 1 ton pick up truck or trailer.

(iii) Permit the accumulation upon or in the Dwelling Unit or adjacent property Recyclables or Residential, Yard or Bulky Waste in an unsightly or unhealthy manner or to in any way block or impede the flow traffic on a street, alley or public way;

(iv) Haul, transport or convey Receptacles, Residential, Yard or Bulky Waste within the City unless such Recyclables, or Waste is covered by a screen, wire mesh, tarpaulin or the like sufficient to contain the contents during such hauling, conveying or transporting.

SECTION 11. FINES AND PENALTIES.

(A) Upon the violation of any provision of this Chapter, the City may institute civil proceedings to enforce the provisions of this Chapter and to recover expenses, costs and attorney fees incurred as a result of such violations. Any person, firm or organization who, upon conviction, is found to be in violation of any of the provisions of this Chapter shall be fined as follows:

i. First Offense - a fine of not more than One Hundred Dollars ($100.00);

ii. Second - Offense - a fine of not more than Five Hundred Dollars ($500.00);

iii. Third and Subsequent Offense - a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) for each offense.

(B) Each day a violation occurs or continues constitutes a separate offense.

PASSED AND ADOPTED by the Common Council of the City of Marion, Indiana, this 4th day of October, 1994.

Ann Secttor
Presiding Officer (Ann Secttor)

ATTEST:

Kathleen Kiley
City Clerk (Kathleen Kiley)

PRESENTED by me to the Mayor of the City of Marion, Indiana, this 5 day of October, 1994.

Kathleen Kiley
City Clerk (Kathleen Kiley)

APPROVED by me as Mayor of the City of Marion, Indiana, this 6th day of October, 1994.

Ron Mowery
Mayor, City of Marion, Indiana
(Ron Mowery)